Title 14
LAND USE AND ENVIRONMENTAL REGULATION

Chapters:

Chapter 14.05
WETLANDS

(Repealed by Ord. 2001-2)

Chapter 14.10
STORM WATER AND EROSION CONTROL

Sections:

Article I. Introduction

14.10.100 Findings.

The council finds that:

(1) Inadequately controlled storm water runoff results in increased storm water runoff volumes, peak flow rates and duration of peak flows in the city's streams, thereby causing flooding and safety hazards, and erosion, scouring, and deposition of sediment;

(2) Untreated storm water runoff discharges nutrients, metals, oil and grease, toxic materials, and other forms of pollution to the city's surface and ground water resources, thereby endangering their use for recreation, drinking water, and fisheries;

(3) Storm water problems from new development should be prevented and corrected at the time that such development occurs and that the governmental approval to proceed with new development should be so conditioned;

(4) The most financially sound and most equitable method for financing the improvements necessary to correct existing problems from storm water runoff and to provide and maintain surface and ground water quantity and quality within drainage basins is for the owners and occupiers of existing properties and future developments within such basins to share the financial burden for such facilities and corrections with other funding sources when available; and

(5) The most technically and financially efficient method of addressing problems caused by storm water runoff is through basin plans. [Ord. 98-7 § 1, 1998.]

14.10.110 Purpose.

The purpose of this chapter is to:

(1) Prevent surface and ground water quality degradation and prevent erosion and sedimentation of creeks, streams, ponds, lakes, wetlands, and other water bodies;

(2) Prevent damage to property from increased runoff rates and volumes;

(3) Protect the quality of waters for drinking water supply, contact recreation, fishing and other beneficial uses;

(4) Establish sound developmental policies that protect and preserve the city's water resources;

(5) Protect roads and rights-of-way from damage due to inadequately controlled runoff and erosion;

(6) Preserve and enhance the aesthetic quality of the city's water resources;

(7) Protect the health, safety and welfare of the inhabitants of the city;

(8) Maintain existing ground water levels, in-stream flows, and available water supply volumes; and

(9) Further the goals of no net change in the quantity of runoff entering streams and no net negative change in the quality of runoff entering streams through the implementation of best management practices. [Ord. 98-7 § 1, 1998.]

14.10.120 Applicability.

(1) All ground-disturbing activities in excess of 500 square feet must follow the requirements of the "City of La Center Erosion Control Guidelines" (June 1998 or latest edition).

(2) The provisions of this chapter apply to each of the following "development activities":

(a) The creation of more than 2,000 square feet of impervious surface or the division of urban single-family residential land creating the reasonable potential for more than 2,000 square feet of additional impervious surface.

(b) The addition of more than 1,000 square feet of new impervious surface on existing industrial or commercial parcels.

(c) Replacement of existing structures exceeding 5,000 square feet on commercial or industrial

parcels.

(3) The provisions of this chapter also apply to "drainage projects," as defined in LCMC 14.10.130. [Ord. 98-7 § 1, 1998.]

14.10.130 Definitions.

For the purposes of this chapter, the following definitions shall apply:

(1) "Best management practice" or "BMP" means those physical, structural and managerial practices, and prohibitions of practices, that, when used singly or in combination, control storm water runoff peak flow rates and volumes and prevent or reduce pollution of surface water or ground water.

(2) "Basin plan" means a storm water management plan adopted by the council and meeting the requirements of Chapter 36.94 RCW.

(3) "City" means the mayor of the city of La Center or representative(s) designated by the mayor.

(4) "Council" means the council of the city of La Center, state of Washington.

(5) "Construction" means any site-altering activity, including but not limited to grading, utility construction and building construction.

(6) "Contributing drainage area" means the subject property together with the watershed contributing water runoff to the subject property.

(7) "Design storm" means the rainfall from a storm of 24-hour duration. For example, two-year storm means the two-year, 24-hour storm.

(8) "Development activity" means:

(a) The creation of more than 2,000 square feet of impervious surface or the division of urban single-family residential land creating the reasonable potential for more than 2,000 square feet of additional impervious surface;

(b) The addition of more than 1,000 square feet of new impervious surface on existing industrial or commercial parcels; or

(c) The replacement of existing structures exceeding 5,000 square feet on commercial or industrial parcels.

(9) "Development site" means the property on which a development activity is proposed.

(10) "Drainage project" means the excavation or construction of pipes, culverts, channels, embankments or other flow altering structures in any stream, storm water facility, or wetland in the city of La Center.

(11) "Ground water" means water in a saturated zone or stratum beneath the surface of land or below a surface water body (source: WAC 173-200-020).

(12) "Impervious surface" means a hard surface area that either prevents or retards the entry of water into the soil. Examples include, but are not limited to, structures, walkways, patios, driveways, carports, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, haul roads and soil surface areas compacted by construction operations, and oiled or macadam surfaces. Open, uncovered storm water facilities are not considered impervious surfaces.

(13) "Natural location" means the location and elevation of those channels, swales, and other nonmanmade conveyance systems as defined by the first documented topographic contours existing for the development site, either from maps or photographs.

(14) "NPDES" means the National Pollutant Discharge Elimination System.

(15) "Peak discharge" means the maximum storm water runoff rate in cubic feet per second determined for the design storm.

(16) “Project engineer” means a registered professional engineer, licensed in the state of Washington, experienced and knowledgeable in the practice of civil engineering related to storm water runoff control and treatment, who is responsible for design and the preparation of storm water plans.

(17) “The Puget Sound Manual” means State of Washington Department of Ecology’s “Stormwater Management Manual for the Puget Sound Basin”, February 1992 edition and updated errata sheets issued by Clark County may be necessary to correct clear and obvious mathematical and technical errors in manual criteria.

(18) “Regional facility” means a facility designed to treat and control storm water runoff from a contributing drainage area of at least 40 acres.

(19) “Registered soil scientist” means a professional soil scientist registered with the American Registry of Certified Professionals in Agronomy, Crops and Soils, experienced and knowledgeable in the practice of pedology related to soil survey, who is responsible for design and preparation of soils maps, related soil groups, and identifying soil factors for construction engineering.

(20) “Roof downspout systems” mean disposal systems that infiltrate storm water runoff from roofs into the ground and meet the requirements stated in LCMC 14.10.210(2) for these systems.

(21) “Storm water facility” means the natural or constructed components of a storm water drainage system, designed and constructed to perform a particular function, or multiple functions. Storm water facilities include, but are not limited to: pipes, swales, ditches, open channels, culverts, storage basins, infiltration devices, catch basins, manholes, dry wells, oil/ water separators, and sediment basins.

(22) “Stream” shall mean those areas of year-round base flow or where surface waters produce a defined channel or bed at least two feet in width between ordinary high water marks. For the purposes of this chapter, streams shall include both natural channels and manmade channels that were constructed to replace a natural stream.

(23) “Subregional facility” means a facility designed to treat and control storm water runoff from more than one development in a contributing drainage area of less than 40 acres.

(24) “Wetlands” means those areas defined as wetlands under Chapter 14.05 LCMC, Wetlands. [Ord. 98-7 § 1, 1998.]

14.10.140 Enforcement.

The city is authorized to enforce the provisions of this chapter utilizing the remedies and procedures in this code. [Ord. 98-7 § 1, 1998.]

Article II. Standard Requirements

14.10.200 Submittal requirements.

(1) Preliminary Storm Water Plan.

(a) Purpose. The purpose of this plan is to determine whether a proposal can meet the requirements set forth in this chapter. The preliminary storm water plan shall identify how storm water runoff originating on the site or flowing through the site is presently controlled and how this will change due to the proposed development activity or drainage project. If the site is within the region covered by a basin plan that is included in Article V of this chapter, then the information needed in the preliminary plan is reduced.

(b) Types of Projects. A preliminary storm water plan is required for the following activities:

(i) Short plats and site plan reviews subject to SEPA review;

(ii) Subdivisions;

(iii) Conditional use permits;

(iv) Planned unit developments.

(c) Timing.

(i) A preliminary storm water plan shall be submitted with the land use application.

(ii) A land use application shall be considered "technically complete" from the standpoint of storm water information when a preliminary storm water plan meeting the submittal requirements of this chapter is provided.

(iii) To insure adequate public review and avoid multiple reviews of preliminary plans by city staff, the preliminary storm water plan shall not be significantly modified after public notice of the final SEPA determination without issuance of a new SEPA determination.

(d) Contents. The preliminary storm water plan shall be prepared in the standardized format described in LCMC 14.10.400. The purpose of this standardized format is to promote a quick and efficient review of required information and to evaluate the feasibility of the proposed storm water control and water quality measures.

(e) Modification of Content Requirements. The city may waive in writing some or all of the content requirements in the preliminary storm water plan if:

(i) The development activity or drainage project is included in an approved final storm water plan which meets the requirements of this chapter; or

(ii) A basin plan exists that makes some of the information irrelevant.

(f) Review and Approval. For proposals connected with a land use application requiring a public hearing, the preliminary storm water plan shall be heard and decided in accordance with the procedures applicable to the land use application. All other preliminary storm water plans shall be acted on by the city within 30 days following submittal of a preliminary storm water plan meeting the submittal requirements of this chapter.

(g) Appeals. Preliminary storm water plan decisions may be administratively appealed in conjunction with the associated land use application.

(2) Final Storm Water Plan.

(a) Purpose. The final storm water plan provides final engineering design and construction drawings for the storm water aspects of a proposed development activity or drainage project.

(b) Types of Projects. A final storm water plan is required for all development activities and drainage projects described in LCMC 14.10.120, even when a preliminary storm water plan is not required under subsections (1)(b) or (e) of this section.

(c) Timing. The final storm water plan is required and must be approved by the city prior to beginning construction related to a development activity or drainage project.

(d) Contents. The final storm water plan shall consist of three parts:

(i) The approved preliminary storm water plan, when required, with an explanation of any differences between the design concepts included in the preliminary storm water plan and the final engineering plans. A final storm water plan that differs from the approved preliminary storm water plan in a manner that, in the opinion of the city, raises material water quality or quantity control issues, shall, if subject to SEPA, require another SEPA determination, and if subject to a public hearing, a second public hearing before the land use hearing examiner.

(ii) Final engineering plans that provide sufficient detail to allow construction of the storm water facilities. These plans shall be stamped, signed, and dated by the engineer(s) registered in the state

of Washington, responsible for hydrologic, hydraulic, geotechnical, structural and general civil engineering design and by the project engineer responsible for the preparation of the final storm water plan. Additionally, the final engineering plan shall show all utilities to insure conflicts between proposed utility lines do not exist.

(iii) A technical information report (TIR).

(A) The TIR shall be a comprehensive report, supplemental to the final engineering plans, containing all technical information and analysis necessary to complete final water quantity and quality engineering plans based on sound engineering practices and careful geotechnical, hydrologic, hydraulic and water quality design.

(B) The TIR shall be stamped, signed and dated by the professional engineer(s), registered in the state of Washington, responsible for hydrologic, hydraulic, geotechnical, structural and general civil engineering design.

(C) The contents and format of the TIR are specified in LCMC 14.10.410.

This format is intended to serve as a guide to the type of information appropriate in the TIR. The level of detail in the TIR is dependent on the complexity and size of the project.

(e) Modification of Content Requirements. The city may waive, in writing, some of the content requirements in the final storm water plan if:

(i) The development activity or drainage project is included in an approved final storm water plan which meets the requirements of this chapter and the applicant demonstrates to the satisfaction of the city that the applicable provisions of the previously approved final storm water plan will be met;

(ii) The city determines, upon receipt of a letter of request from the applicant, that less information is required to accomplish the purposes of this chapter; or

(iii) A basin plan exists that makes some of the information irrelevant.

(f) Review and Approval.

(i) Final storm water plans shall be reviewed within 14 days of submittal or re-submittal.

(ii) All final storm water plans require approval by the city. Approval is only for conformance with city of La Center standards and does not relieve the engineer of record of responsibility for the design.

(iii) Approval of final storm water plans does not relieve the applicant from the obligation to comply with this chapter and does not prevent the city from recovering for defective work or violation of this chapter.

(3) As-Built Plans.

(a) As-built plans which accurately represent the project as constructed shall be provided to the city prior to the issuance of building permits for single-family residential subdivisions, the issuance of occupancy permits for projects subject to site plan review, and within 60 days following completion of construction for other projects.

(b) The as-built plans shall include corrected engineering plans for the storm water system, showing constructed dimensions and elevations. In addition, revisions to the final storm water plan shall be submitted with the as-built plans where changes which take place during construction significantly alter the calculations and assumptions contained in the plan.

(c) All plans submitted shall be reproducible and on mylar.

(d) The as-built plan submittal shall be stamped, signed and dated by a licensed professional engineer, registered in the state of Washington, certifying that the constructed project is in conformance with the final storm water plan. [Ord. 98-7 § 1, 1998.]

14.10.210 Water quality treatment.

(1) General Standards.

(a) All projects shall provide treatment of storm water runoff through the use of BMPs specified in this section.

(b) Treatment BMPs shall be sized to capture, hold, and treat the water quality design storm, defined as the six-month, 24-hour storm runoff volume.

(c) If site conditions are appropriate and ground water quality will not be impaired, infiltration is the preferred BMP. All discharges to ground water shall comply with the following state laws: "The Water Pollution Control Act" (Chapter 90.48 RCW), "The Water Resources Act" (Chapter 90.54 RCW), and "Water Quality Standards for Ground Waters of the State of Washington" (Chapter 173-200 WAC). Infiltration may be limited near public water supply wells.

(d) The BMPs cited in this section shall be sited, designed, and constructed in accordance with the requirements detailed in the Puget Sound Manual for each BMP, with the following exceptions:

(i) For biofiltration swales (RB.05) and vegetative filter strips (RB.10), alternative design criteria from the publication "Biofiltration Swale Performance, Recommendations, and Design Considerations – Appendix G" by the Municipality of Metropolitan Seattle, Water Pollution Control Department, dated October 5, 1992, shall be used.

(ii) Where provisions of this chapter conflict with the Puget Sound Manual or other cited design guidance, this chapter shall take precedence.

(e) All discharges to surface waters shall comply with the following state laws: "The Water Pollution Control Act" (Chapter 90.48 RCW) and "Water Quality Standards for Surface Waters of the State of Washington" (Chapter 173-201A WAC).

(2) Standard BMPs.

(a) Standard storm water treatment BMPs shall be used to treat storm water throughout the city of La Center.

(b) Acceptable standard treatment BMPs include the following from the Puget Sound Manual (Chapters III-3, III-4, and III-6):

(i) R1.05 – WQ infiltration basin.

(ii) RI.10 – WQ infiltration trench.

(iii) RI.15 – Roof downspout system.

(iv) RD.09 – Constructed wetland.

(v) RD.06 – Wet pond with marsh.

(vi) RD.05 – Wet pond without marsh.

(vii) RB.05 – Biofiltration swale.

(viii) RB.10 – Vegetative filter strip.

(ix) RF.05 – Sand filtration basin.

(x) RF.10 – Sand filtration trench.

(c) Sand filtration BMPs (RF.05 and RF.10) are not allowed on commercial or industrial sites where the effluent from the treatment systems will drain to ground water.

(d) For biofiltration swales and vegetative filter strips, the hydraulic residence used for design shall be no less than nine minutes. Swale slopes, however, may be less than two percent.

(e) Infiltration BMPs shall not be used as temporary erosion control devices.

(f) Alternative roof downspout systems that provide an equivalent level of performance to the

system in the Puget Sound Manual (RI.15) may be approved by the city. Roof downspout systems can be constructed without observation wells.

(4) Source Control BMPs. In addition to the other water quality treatment requirements in this section, commercial, industrial, and public works development activities shall meet the source control BMPs specified in Chapters IV-2, IV-3, and IV-A of the Puget Sound Manual.

(5) Oil/Water Separators.

(a) The following development activities require API or CPS-type oil/water separators:

(i) Industrial machinery and equipment, trucks and trailer aircraft, parts and aerospace, railroad equipment;

(ii) Log storage and sorting yards;

(iii) Airfields and aircraft maintenance;

(iv) Fleet vehicle yards;

(v) Railroads;

(vi) Gas stations;

(vii) Retail/wholesale vehicle and equipment dealers;

(viii) Vehicle maintenance and repair;

(ix) Construction businesses such as paving, heavy maintenance, equipment storage and storage of petroleum products (this does not include construction sites);

(x) Other activities that exhibit a significant risk of high oil loading in runoff.

(b) The following development activities shall require spill control (SC) type oil/water separators:

(i) Restaurants;

(ii) Multifamily residential projects creating parking spaces for 25 or more vehicles;

(iii) Other activities where the risk of oil spills or illegal dumping of oil or grease is significant.

(c) For development activities cited in subsections (5)(a) and (b) of this section, oil/water separators shall not be required on portions of a site where the risk of oil or grease spills or dumping is minimal.

(d) Oil/water separators shall be designed in accordance with Chapter III, Section III-7 of the Puget Sound Manual.

(6) Infiltration BMPs on Industrial and Commercial Sites.

(a) Infiltration of storm water runoff may not be allowed on commercial and industrial sites, which, due to location or the proposed use, pose a significant threat of contamination to ground water.

(b) Approval for use of infiltration BMPs (RI.05-30 in the Puget Sound Manual) on industrial and commercial sites, including gas stations, shall be conditioned on all the following criteria, unless found inappropriate by the city:

(i) Analysis of the potential for ground water contamination from the site. This analysis shall include a soils and ground water evaluation if deemed appropriate by the city.

(ii) Demonstration that no other feasible alternative exists for disposing of storm water from the site.

(iii) A “State Waste Discharge Permit”, as described in Chapter 173-216 WAC, obtained from the state of Washington Department of Ecology, where required by the state, and other state permits and approvals as appropriate.

(c) The requirements of subsection (6)(a) of this section shall not apply to runoff from portions of a site where the risk of ground water contamination is no greater than single-family residential sites.

Examples of these areas include rooftop drainage, runoff from undeveloped portions of a site, and drainage from portions of parking lots where the risk of illegal dumping is minimal.

(d) In cases where infiltration is allowed on commercial and industrial sites and a significant risk of ground water contamination exists, the city may require ground water monitoring to insure against ground water contamination. The city may also require an agreement from the applicant for full mitigation in the event of ground water contamination.

(e) The provisions of this subsection (6) do not apply to nonindustrial and noncommercial sites that are defined under the NPDES permit system as industrial due to temporary construction activity.

(7) Experimental BMPs.

(a) Experimental best management practices are those which have not been fully tested and evaluated by the county or the Department of Ecology and are not included as accepted practices in this code or the Puget Sound Manual. Experimental BMPs that are adequately tested and proven effective shall be incorporated into this chapter as standard or accepted BMPs in the future.

(b) Experimental BMPs may be allowed if all the following conditions are met:

(i) The experimental BMP usage is part of a Department of Ecology or Clark County water quality division research project;

(ii) Monitoring of the effluent quality produced by the BMP, as well as influent quality, will be conducted for at least two years;

(iii) Results of the research will be published;

(iv) Financing is available to construct the BMP, conduct the testing, and publish the results.

(8) Drainage Structure Labeling and Signage.

(a) All catch basins and manholes capable of accepting storm water shall be stenciled. The stenciling shall be redone once a year or as necessary to maintain readability.

For infiltration systems stenciling shall read:

Dump No Waste –

Protect Your Ground Water

For facilities draining to surface waters the stenciling shall read:

Dump No Waste – Drains to Stream

(b) Signs shall be installed along water quality biofiltration systems that read:

Water Quality Filter –

Please Leave Vegetated

[Ord. 98-7 § 1, 1998.]

14.10.220 Quantity control.

(1) General Standards.

(a) All projects shall provide quantity control of storm water runoff in accordance with the requirements of this section.

(b) Natural drainage flow routes through streams shall be maintained, and discharges from the site shall occur at the natural location and elevation, to the maximum extent practical.

(c) Transfer of runoff from one basin to another shall not be allowed.

(d) Surface water exiting a parcel shall be discharged with adequate energy dissipaters within the development site to prevent downstream damage.

(e) No reduction of existing conveyance capacity and no net loss of existing storage capacity for the 100-year storm is permitted in special flood hazard areas as defined by the Federal Emergency

Management Agency in a scientific and engineering report entitled "The Flood Insurance Study of Clark County" effective August 2, 1982. This requirement shall also apply to all areas within the limits of the existing 100-year floodplain, as determined by hydrologic/hydraulic computations in accordance with this chapter, for all streams and manmade channels within city of La Center.

(f) Where provisions of this chapter conflict with the Puget Sound Manual or other cited design guidance, this chapter shall take precedence.

(2) Hydrologic and Hydraulic Analysis.

(a) Hydrologic and hydraulic analysis shall be in accordance with Chapters III-1 and III-2 of the Puget Sound Manual, with the following exceptions:

(i) Table III-1.6, "Hydrologic Soil Groups for Soils in the Puget Sound Basin" is replaced by "Hydrologic Soil Groups for Soils in Clark County", (Exhibit B). (Source: SCS TR-55, Second Edition, June 1986, Exhibit A-i. Revisions made from SCS, Soils Interpretation Record, Form #5, September 1988). Alternatively, hydrological soil groups can be developed by a registered soil scientist using criteria set in the USDA, SCS National Soils Handbook.

(ii) Appendix AIII-1.1, "Isopluvial Maps for Design Storms" is replaced by "Isopluvial Maps for Design Storms in Clark County", (Exhibit C). (Source: NOAA Atlas 2, "Precipitation Frequency Atlas for the Western United States, Volume IX – Washington.)

(iii) The "HEC-1 Flood Hydrograph Package" computer program, developed by the Hydrologic Engineering Center, U.S. Army Corps of Engineers is an acceptable hydrologic computation program for use in the city of La Center.

(iv) Design of storm water collection systems shall be in accordance with Hydraulic Engineering Circular #12, "Drainage of Highway Pavements", 1984 Edition, published by the United States Department of Transportation, Federal Highway Administration (FHWA).

(b) Table III-1.3, "SCS Western Washington Runoff Curve Numbers" of the Puget Sound Manual shall be used to calculate pre-development and post-development runoff with the following constraints:

(i) Predevelopment land use shall be the typical land use over the past 50 years, as demonstrated by evidence acceptable to the city of La Center. Alternatively, the land use shown on 1968 aerial photos can be used.

(ii) In areas where the predevelopment land use is determined to be forest, the curve numbers for "undisturbed" forest land shall be used.

(iii) Development activities involving replacement of existing commercial and industrial facilities can assume predevelopment land use equivalent to the facility being replaced.

(c) If surface runoff leaves a development site and the predevelopment runoff calculations do not assume undisturbed forest in determining the runoff curve number, then a hydraulic and hydrologic analysis of the capacity of the downstream conveyance system shall be required.

(i) The analysis shall analyze both the natural and manmade conveyance system to the East Fork Lewis River or a point at least one mile downstream from the development site, whichever is less. This distance may be extended by the city if impacts further downstream are likely due to the development activity.

(ii) Based on the analysis, the system will be assumed to be at capacity if one of the following conditions exists currently or will exist as a result of the proposed development activity:

(A) The conveyance system fails to meet the requirements of this section.

(B) Streams that are part of the conveyance system overflow their banks during a two-year storm.

(C) Significant strewn bank erosion is evident.

(D) Existing downstream residences are flooded during the 100-year storm.

(3) Design Methodology for Quantity Control Facilities.

(a) Except as limited by LCMC 14.10.210(6) for commercial and industrial sites, infiltration of the 100-year storm is required for all storm water discharges from development sites where local soil types and ground water conditions are suitable provided that water quality treatment as detailed in LCMC 14.10.210 is provided prior to infiltration.

(b) The design infiltration rate for infiltration systems shall be limited to half the percolation rate. Percolation rates shall be tested on-site for all soils.

(c) The city may allow the base of infiltration facilities to be less than three feet above seasonal high water or an impermeable layer if the quality and quantity control requirements of this chapter can be met.

(d) For surface runoff leaving a development site, the following criteria shall be met:

(i) The peak release rate for the 2-, 10-, 25- and 100-year design storms after development shall not exceed the respective predevelopment rates.

(ii) The runoff volume for the 25-year design storm after development shall not exceed the predevelopment runoff volume for the 25-year storm.

(e) For development activities where a downstream analysis is performed and the conveyance system is at capacity as defined in subsection (2)(c) of this section, the runoff volumes from the 25- and 100-year design storm after development shall not exceed the pre-development runoff volumes from the 25- and 100-year storm.

(f) To insure the standards in this section are met, the volume available for storing runoff in a storm water facility shall be reduced by:

(i) High seasonal ground water; and

(ii) Assumed starting condition equivalent to an immediately prior two-year storm event.

(g) Design of storm water control facilities shall be in accordance with the following methods from the Puget Sound Manual (Chapters III-1 and III-3):

(i) Section III-1.4.4 – Hydrograph Routing;

(ii) Section III-1.4.5 – Hydrograph Summation and Phasing;

(iii) Section III-1.4.6 – Computer Applications;

(iv) Section III-3.3 – Feasibility Analysis and General Limitations for Infiltration BMPs;

(v) Section III-3.4 – General Design Criteria for Infiltration and Filtration BMPs;

(vi) Section III-3.5 – Construction and Maintenance;

(vii) Section III-3.3 – General Design Criteria;

(viii) Section III-4.4 – Standards and Specifications for Detention Ponds.

(4) Conveyance Systems.

(a) Open channel conveyance systems incorporating water quality treatment, habitat improvement and emergency overland flood relief routes shall be utilized to the maximum extent practicable.

(b) Storm water conveyance elements to transport water within and from a project site shall be sized to carry flows from the “design storm” from the contributing drainage area based upon the projected full buildout of that contributing drainage area, and be fully compatible with existing downstream conveyance elements and flow conditions.

(c) For storm water conveyance design, the “design storms” shall be as follows:

(i) Ten-year storm – contributing drainage areas less than 40 acres.

(ii) Twenty-five-year storm – contributing drainage areas of 40 acres or more.

(iii) One-hundred-year storm – culverts with contributing drainage areas greater than 200 acres, culverts in areas of special flood hazard as described in Federal Emergency Management Agency "FIRM" maps and reports for Clark County, culverts where upsizing in order to meet design requirements for the 100-year storm is required.

(d) Development sites shall be planned to be able to pass a 100-year storm through the site.

(e) Closed conveyance system elements shall be designed to operate in an open flow, not pressure flow, regime.

(f) Runoff from the 100-year storm may leave pipes and channels but shall not rise to elevations more than two feet below that of the lowest finished floor of buildings.

(g) For the 10-year storm, street ponding shall be limited to one-half of the roadway area and shall not exceed the capacity of the inlet or produce a flow depth of greater than 0.12 feet at the edge of the travel lane.

(h) For roadway flooding conditions during the 100-year storm, one travel lane in either direction shall remain open to emergency vehicles at all times. A travel lane will be considered to be open to emergency vehicles if the maximum depth of flow in the travel lane does not exceed 0.5 feet.

(i) For parking lot flooding conditions during the 100-year storm, the maximum depth of ponding shall not exceed 1.5 feet. Storage volumes resulting from ponding in street and parking lot areas may be used to meet the storage requirements of subsection (3) of this section for the 100-year storm.

(j) Design of conveyance systems shall be in accordance with Chapter III-2 of the Puget Sound Manual.

(k) Design of bridges shall be in accordance with the State of Washington Department of Transportation Bridge Design Standards, 1991 Edition or most current edition.

(l) Storm water easements shall be provided to the city for access and maintenance of all conveyance systems within the development site which are to be maintained by the city. The minimum widths of easements shall be as follows, although the city may require increased widths when necessary to insure adequate area for equipment access and maintenance:

(i) Pipes with I.D. less than or equal to 36 inches: 20 feet;

(ii) Pipes with I.D. greater than 36 inches: 20 feet plus pipe I.D.;

(iii) Pipes shall be located with their center line no closer than one-quarter of the easement width from an adjacent property line;

(iv) Channels: top width of channel plus 15 feet on one side.

(m) Storm water easements shall be provided to the city for access and maintenance of all streams within a development site.

(i) Easements shall include the land between the top of bank on both sides of the stream.

(ii) Easements shall also include an additional 25 feet adjacent to the top of bank on one side of the stream for equipment and maintenance access, if adequate access is not available in the area between the top of banks.

(iii) Excluded from the easements shall be any existing private structures, such as buildings, which prevent access to the stream.

(n) No buildings or other structures that prevent access are permitted within easements. Fences crossing easements shall provide gates of sufficient width over the easement for access by maintenance vehicles.

(5) Discharge to Large Water Bodies. Projects meeting all the following criteria are exempt from the quantity control requirements of subsections (3)(d) and (e) of this section:

(a) The runoff from the project directly enters the East Fork of the River;

(b) Runoff is treated in accordance with the requirements of LCMC 14.10.210;

(c) The discharge and its related structures are approved by the Washington Department of Fish and Wildlife and other appropriate state and federal agencies;

(d) The discharge structure is designed to avoid erosion during all storms up to the 100-year storm;

(e) If an existing discharge structure is used:

(i) The structure must meet requirements in subsections (5)(d) and (e) of this section; and

(ii) The discharge structure and conveyance system leading to the discharge must have adequate capacity to meet the requirements of this chapter. [Ord. 98-7 § 1, 1998.]

14.10.230 Maintenance and ownership.

(1) City Ownership of Storm Water Facilities.

(a) Storm water facilities located within public road rights-of-way shall be owned by the city.

(b) City ownership of storm water facilities outside public road rights-of-way is not required and will be considered on a case-by-case basis.

(c) City ownership of storm water facilities is required where the city will assume long-term maintenance of the facilities.

(2) Initial Maintenance.

(a) To insure satisfactory operation of new storm water facilities, the applicant constructing the facility shall maintain it for two years after completion of the project.

(b) In cases where the storm water facility is within a public road right-of-way or on land owned by the city of La Center, the applicant constructing the facility, after satisfactory completion of the storm water facilities and as a condition of acceptance of such facilities by the city of La Center, shall commence a two-year period of maintenance of the facility. The applicant shall satisfactorily maintain the facility and repair any failure within this two-year period. Additionally, the applicant shall post and maintain a maintenance bond or other security acceptable to the city during this two-year initial maintenance period. The purpose of the maintenance bond is to cover the cost of design defects or failures in workmanship of the facilities. The amount of the maintenance bond shall be 10 percent of the construction cost of the storm water facilities.

(3) Long-Term Maintenance.

(a) The city of La Center shall provide long-term maintenance of new storm water facilities under any of the following situations:

(i) Facilities located in public road rights-of-way; or

(ii) Facilities dedicated to the city of La Center (dedication to the city of La Center requires prior approval and acceptance by the city).

(b) If the city of La Center provides long-term maintenance of a storm water facility, all the following requirements shall be met:

(i) The requirements in subsection (2) of this section shall be completed;

(ii) The facilities shall be inspected and approved by the city prior to acceptance. Required remedial work to correct design and construction deficiencies shall be completed by the project developer prior to acceptance; and

(iii) All necessary ownerships and easements entitling the city to properly access and maintain the facility shall be conveyed to the city of La Center and recorded with the county auditor.

(c) For storm water facilities for which the city of La Center will not provide long-term maintenance, the applicant shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance in a manner subject to the approval of the city. Such arrangements shall be approved prior to city approval of the final storm water plan and completed prior to the end of the two-year initial maintenance period of the applicant's responsibility or in the case of plats, prior to the time of recording.

(d) The city shall inspect privately maintained facilities for compliance with the requirements of this chapter. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the city shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the city shall perform this maintenance and bill the parties responsible for the maintenance.

(e) Easements or a covenant acceptable to the city shall be provided to the city for purposes of inspection of privately maintained facilities. The minimum dimensions of easements for storm water facilities are as follows:

(i) Sufficient width around a treatment or storage pond to encompass the pond plus the additional area necessary for equipment accesses;

(ii) Pond design and easements shall allow access to all areas within the pond by standard maintenance equipment vehicles;

(iii) Widths of easements for conveyance facilities shall be as detailed in LCMC 14.10.220(4)(l) and (m).

(f) Final plats shall include a note specifying the party(s) responsible for long-term maintenance of storm water facilities. [Ord. 98-7 § 1, 1998.]

14.10.240 Other requirements.

(1) Location of Storm Water Facilities.

(a) Treatment runoff control and recharge facilities shall be located prior to the point of discharge into a stream, lake, or fish-bearing water or prior to discharge to ground water.

(b) Location of storm water facilities in relation to wetlands are specified in Chapter 14.05 LCMC, Wetlands.

(c) Storm water facilities, other than closed conveyance systems, shall be located at least 100 feet from existing and proposed on-site sewage system drainfields.

(d) Infiltration systems used for storm water disposal shall be located at least 100 feet from domestic water supply wells.

(e) Swales and other storm water treatment facilities using biofiltration shall be located outside easements and corridors used by phone, electric, water, natural gas, and other utilities unless the utilities are installed prior to construction of the biofiltration system.

(f) Sites used for storm water treatment and runoff control facilities shall be owned by the applicant city, county, or state and:

(i) If the city, county or state owns the site, a letter from the responsible agency allowing use of the site for storm water control shall be submitted with the preliminary storm water plan.

(ii) If the city, county or state does not own the site and the proposal involves a development activity, the storm water control site shall be included for consideration with the land use application for the development activity.

(g) Storm water treatment and control facilities shall be located on separate tracts which are

recommended, but not required, to meet minimum zoning lot size requirements. The plat or other dedication instrument shall indicate tract disposition in the event of city abandonment or vacation.

(2) Protection of Infiltration Systems from Erosion. Storm water infiltration systems shall be isolated and protected from sedimentation due to erosion during the construction phase of a development activity or drainage project. Furthermore, use of infiltration systems shall be minimized until the erodible parts of a site are stabilized with adequate vegetation.

(3) Fencing of Storm Water Facilities.

(a) Storm water treatment and runoff control facilities located in or adjacent to residential areas shall be fenced unless these facilities are constructed as part of a project amenity such as a park or the city waives the fencing requirement due to special circumstances.

(b) Storm water treatment and runoff control facilities, other than those described in subsection (3)(a) of this section, shall be fenced if they pose safety risks to the public.

(c) The size and type of fence shall be determined by the city.

(4) Side Slopes of Storm Water Facilities.

(a) For maintenance and safety reasons, side slopes of storm water facilities normally shall be no steeper than 4:1.

(b) For facilities to be maintained by the city, vertical slopes are allowed if all the following conditions are met:

(i) No more than 50 percent of the perimeter of the storm water facility shall have vertical sides except in areas of steep topography where 75 percent of the perimeter may have vertical sides.

(ii) Vertical sides more than three feet high shall be fenced.

(iii) Slopes steeper than 2:1 shall be analyzed for structural stability and shown to be structurally sound.

(iv) Access for maintenance of facilities satisfactory to the city shall be provided.

(v) Side slopes in a biofiltration treatment area shall be no steeper than 4:1.

(c) For facilities that will not be maintained by the city, slopes steeper than 4:1 are allowed if all the following conditions are met:

(i) Side slopes in a biofiltration treatment area shall be no steeper than 4:1.

(ii) Adequate long-term erosion control is provided.

(iii) Slopes steeper than 2:1 shall be analyzed for structural stability and shown to be structurally sound.

(iv) The maintenance and operations manual for the facility shall demonstrate that the facility can be maintained.

(d) Side slope steeper than 4:1 may also be allowed by the city for specialized projects, such as stream bank reconstruction, where all the following conditions are met:

(i) Side slopes do not need to be mowed.

(ii) Adequate long-term erosion control is provided.

(5) Recovering Costs of Storm Water Facilities.

(a) The following costs associated with storm water facilities may be recoverable through latecomers' agreements (RCW 35.91.010):

(i) Oversizing on-site facilities above their existing capacity or the capacity required for the proposed development;

(ii) A proportionate share of the total cost of off-site facilities.

(b) If a storm water utility exists, the costs for building or oversizing a storm water facility may be eligible as a credit against applicable system development charges.

(6) Bonds and Insurance.

(a) Performance Security. In lieu of completing required storm water facilities within a preliminary plat prior to recording, the applicant shall post a performance bond or other security acceptable to the city in the amount of the 125 percent of the estimated cost (prepared by the project engineer) of completing construction per the approved storm water plan. After determination by the city that all facilities are constructed in compliance with the approved plan, are performing their intended functions in a satisfactory manner, and that the maintenance bonding requirements of LCMC 14.10.230 are met, the performance bond or security shall be released.

(b) Maintenance Security. In cases identified in LCMC 14.10.230(2), a maintenance bond acceptable to the city shall be posted and maintained during the initial maintenance period for a storm water facility. [Ord. 98-7 § 1, 1998.]

Article III. Exceptions and Special Cases

14.10.300 Basin plans.

(1) Basin plans are strategies for a watershed designed to protect and enhance surface and ground water within a watershed.

(2) Where conflicts occur, the policies and standards in a basin plan shall supersede the other requirements of this chapter.

(3) To be valid, basin plans must be stamped by a registered professional engineer, adopted by the council and incorporated into this chapter.

(4) Adopted basin plans are identified beginning in LCMC 14.10.500. [Ord. 98-7 § 1, 1998.]

14.10.310 Regional and subregional facilities.

(1) If regional or subregional facilities are used to meet some or all of the standard requirements of Article II of this chapter, the following conditions shall be met:

(a) Storm water runoff shall be transported from a development site to a regional/subregional facility through a pipe or manmade open channel conveyance system.

(b) If the regional/subregional facility does not yet exist, interim quantity control and treatment methods shall be used to meet the standard requirements of Article II of this chapter. All interim methods shall be reviewed and shall require written approval by the city.

(c) The facility must have sufficient capacity to provide the treatment and quantity control specified in Article II.

(d) A written commitment from the owner of the facility, or the city; in the case of city facilities, shall be provided that allows use of the facility by the applicant.

(2) Where appropriate, a system development charge shall be assessed for use of a regional/subregional facility. [Ord. 98-7 § 1, 1998.]

14.10.320 Variances.

(1) General.

(a) Variance requests require a public hearing before a city of La Center hearing examiner. Notice and appeal requirements will be the same as those provided for preliminary subdivision plat

applications.

(b) Variances shall be valid only for the life of the land use application permit or approval.

(2) Variances – Hardship. If application of the standard requirements of Article II of this chapter will preclude all reasonable use of a parcel, an applicant can make a written request for a waiver from some or all of the standard requirements of Article II. For the variance request to be considered, the applicant must demonstrate all of the following:

(a) The proposed activities will not cause significant degradation of ground water or surface water quality;

(b) The proposed activities comply with all state, local and federal laws, including those related to sediment control, pollution control, floodplain and floodway restrictions, wetland and fish habitat protection;

(c) No material damage to nearby public or private property nor significant threat to the health or safety of people on or off the property will occur; and

(d) The inability to derive any reasonable use of the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of the ordinance codified in this chapter. [Ord. 98-7 § 1, 1998.]

14.10.330 Other governmental agency projects.

The bonding and insurance requirements of LCMC 14.10.240(6) shall be waived for development activities and drainage projects undertaken by governmental agencies. [Ord. 98-7 § 1, 1998.]

14.10.340 Single-family home construction.

The construction of single-family homes, duplexes, and their accessory structures that fall into one of the categories below and meet the conditions stated for that category are exempt from the provisions of Article II (Standard Requirements) and Article IV (Other Provisions) of this chapter.

(1) Previously Reviewed and Approved Site. The development site or parcel is included in an approved final storm water plan that meets the requirements of this chapter or a storm water plan was approved that provided for detention or retention of runoff from residential lots.

(2) Lots 15,000 Square Feet and Less. Residential structures on lots 15,000 square feet or smaller constructed with roof downspout systems.

(3) Lots 15,000 Square Feet to 1.5 Acres with Roof Downspout Systems. Lots larger than 15,000 square feet and smaller than or equal to 1.5 acres where the residential structure is constructed with a roof downspout system and the following minimum amounts of storage are provided for storm water runoff:

(a) Two thousand cubic feet per acre, if the site is unforested at time of occupancy.

(b) Eight hundred cubic feet per acre, if the majority of the site is young second or third growth forest at the time of occupancy.

(c) No storage, if the majority of the site is undisturbed forest at the time of occupancy.

(4) Lots 15,000 Square Feet to 1.5 Acres without Roof Downspout Systems. Lots larger than 15,000 square feet and smaller than or equal to 1.5 acres where the residential structure is constructed without a roof downspout system and the following minimum amounts of storage are provided for storm water runoff:

(a) Three thousand cubic feet per acre, if the site is unforested at time of occupancy.

(b) One thousand six hundred cubic feet per acre, if the majority of the site is young second or

third growth forest at the time of occupancy.

(c) Five hundred cubic feet per acre, if the majority of the site is undisturbed forest at the time of occupancy.

(5) Lots Larger than 1.5 Acres. Lots larger than 1.5 acres where the following minimum amounts of storage are provided for storm water runoff:

(a) Three thousand cubic feet per acre, if the site is unforested at time of occupancy.

(b) One thousand five hundred cubic feet per acre, if the majority of the site is young second or third growth forest at the time of occupancy.

(c) No storage, if the majority of the site is undisturbed forest at the time of occupancy. [Ord. 98-7 § 1, 1998.]

14.10.350 Small residential projects.

(1) Qualifying Projects. Small residential projects include single-family residential short plats and subdivisions of four lots or less.

(2) Treatment and Runoff Control Requirements.

(a) As an alternative to meeting all the water quality treatment and quantity control requirements specified in LCMC 14.10.210 and 14.10.220, small residential projects can utilize the following methods for treating and controlling storm water runoff:

(i) Use of roof downspout systems for residential structures.

(ii) Control of runoff flows through creation of detention volume of at least 8,000 cubic feet per acre of the development site.

(iii) Use of one of the standard BMPs listed in LCMC 14.10.210(2) for treating runoff other than the runoff from roofs.

(b) Small residential projects that utilize the methods identified in subsection (2)(a) of this section shall be exempt from the following sections of this chapter:

(i) Hydrologic and hydraulic analysis (LCMC 14.10.220(2)).

(ii) Design methodology for quantity control facilities (LCMC 14.10.220(3)(b), (c), and (d)).

(3) Information Requirements. The submittal requirements (LCMC 14.10.200) for small residential projects are modified as follows:

(a) An abbreviated preliminary storm water plan as outlined in LCMC 14.10.420 can be substituted for the preliminary storm water plan.

(b) A technical information report (LCMC 14.10.200(2)(d)(iii)) shall not be required; however, sufficient information and data shall be provided with the final storm water plan to allow the city to determine conformance with the applicable provisions of this chapter. [Ord. 98-7 § 1, 1998.]

14.10.360 Other exemptions.

(1) Drainage Projects.

(a) Drainage projects that are not a part of a development activity are exempt from the water quality treatment provisions of this chapter (LCMC 14.10.210).

(b) For drainage projects that are not part of a development activity, the city may waive all or parts of the submittal requirements (LCMC 14.10.200), maintenance and ownership requirements (LCMC 14.10.230), and bonding and insurance requirements (LCMC 14.10.240(6)) if the project meets the other appropriate parts of this chapter. [Ord. 98-7 § 1, 1998.]

Article IV. Other Provisions

14.10.400 Contents of a preliminary storm water plan.

The preliminary storm water plan required pursuant to LCMC 14.10.200(1) shall contain the information listed below. All maps shall contain a scale and north arrow. Insuring the accuracy of all the information is the applicant's responsibility.

(1) Vicinity Maps. All vicinity maps shall clearly show the site of the development activity or drainage project.

(a) Site Location Map. Minimum USGS 1:24000 quadrangle topographic map showing (and labeling where appropriate):

(i) Contributing drainage areas and acreage;

(ii) Natural and manmade drainage features adjacent to site including existing and proposed (if known) storm water facilities.

(b) Soils Map.

(i) The soils map shall show soils within the contributing area draining to the site and the site itself. Copies of Clark County soil survey maps may be used; however, if the maps do not appear to accurately represent the soils for a site, the applicant is responsible for verifying the actual soil types existing on a site.

(ii) Where unstable or complex soil conditions exist which may significantly impact the design of storm water facilities, the city may require a preliminary soils report to be completed that addresses storm water design considerations arising from soil conditions. The preliminary soils report shall be prepared by a registered professional engineer proficient in geotechnical investigation and engineering, or a registered soil scientist. The preliminary soils report shall include a soils map, developed using the criteria set in the USDA, SCS National Soils Handbook and USDA, SCS Title 430 Soil Survey Manual at a minimum scale of 1:5000 (12.7 in./mi.).

(c) Other Maps. The following additional vicinity maps shall be required in the situations noted below:

(i) Conveyance System. If a surface water discharge of storm water is proposed from the site, a map showing the conveyance system downstream to a point where the storm water enters a stream, wetland, or other natural water body shall be required.

(ii) Floodplains. If a floodplain mapped by FEMA exists on or adjacent to the site, a map showing the floodplain is required.

(iii) Shoreline Management Area. If the site contains or is adjacent to a stream or lake regulated under the State Shorelines Management Act, a map showing the boundary of the shoreline management area in relation to the site is required.

(2) Preliminary Development Plan. The preliminary development plan shall show the character of the existing site and proposed features, including but not limited to:

(a) Existing and proposed property boundaries, easements and rights-of-way;

(b) Existing contours with a two-foot maximum contour interval, unless the city determines a lesser interval is sufficient to show drainage patterns;

(c) Existing on-site water wells, known agricultural drain tiles, areas of potential slope instability, structures, utilities, and septic tanks and drainfields;

(d) Location of the 100-year flood plain and floodways and shoreline management area limits on the site;

(e) Proposed impervious surfaces outside of single-family residential lots;

(f) Existing water resource features on and adjacent to the site including streams, wetlands, springs, sinks, and storm water facilities;

(g) Drainage flow routes and existing discharge points to and from the site; and

(h) Approximate location and size of proposed storm water facilities, including typical cross-sections of proposed facilities.

(3) Additional Site and Vicinity Information.

(a) If wetlands exist on the site and will be impacted by the proposal, a wetland delineation report (LCMC 14.05.110) shall be required.

(b) In areas of high ground water, water table elevations, flow directions (where available), and data on seasonal water table fluctuations with minimum and maximum water table elevations (where available) shall be required.

(c) For sloping sites, a conceptual grading plan verifying the constructability of a storm water facility shall be required.

(d) The city may require additional site or vicinity information if needed to determine the feasibility of the storm water proposal.

(4) Preliminary Storm Water Design Report. A written narrative shall be required to accompany the preliminary storm water plan. The narrative shall describe the methods for meeting the requirements of this chapter and include the following information:

(a) Description of on-site hydrologic soil groups and their suitability for the proposed design and verification of soil conditions through field reconnaissance (to the maximum extent practicable);

(b) Identification of the approximate amount of new impervious surface contemplated for the proposal;

(c) Identification of where runoff characteristics will be altered, e.g., where runoff curve numbers will be revised by the proposed development;

(d) Discussion of how on-site conveyance system design will provide for ultimate buildout of the upstream area based on the maximum density achievable under the city of La Center comprehensive plan, if applicable;

(e) Listing of approximate volumes of runoff storage required;

(f) Listing of tested percolation rates at sites to be used for infiltration, if required;

(g) Listing of proposed BMPs which will meet the treatment requirements of this chapter and are appropriate for the site;

(h) Description of the approximate size and location of storm water facilities on the site;

(i) For agricultural sites with drain tiles, a discussion of the impact of construction on the drain tiles and site drainage and the impact of the drainage tiles on proposed storm water facilities;

(j) Discussion of who will maintain the facility(s) after completion and proposed method of funding for maintenance if the facility(s) will be privately maintained; and

(k) Listing of additional permits (e.g., wetland, floodplain, and shoreline management permits) that may be required in connection with the storm water facilities.

(5) Downstream Analysis. If a downstream hydrologic and hydraulic analysis is required according to LCMC 14.10.220(2)(c), then the preliminary storm water plan shall include a preliminary version of this analysis. The preliminary analysis shall include:

(a) Map of the downstream system with all significant drainage structures identified;

(b) Calculation of increased runoff flows and volumes from the development site for the 2-, 10-, 25- and 100-year storm;

(c) Preliminary calculations of the existing flows downstream of the development site, estimate of the capacity of the downstream system, and discussion of how additional runoff from the development site will impact the downstream system; and

(d) Identification of problem areas downstream such as those exhibiting overtopping, scouring, undercutting, bank sloughing, flooding, stream incision, and sedimentation.

(6) Signatures. All plans and reports shall be stamped, signed and dated by the professional civil engineer(s), registered in the state of Washington, and registered soil scientist if appropriate, responsible for their preparation, and by the project engineer responsible for preparation of the preliminary storm water plan. [Ord. 98-7 § 1, 1998.]

14.10.410 Contents of a final storm water plan – Technical information report (TIR).

The technical information report, which is part of the final storm water plan, shall contain the following information:

(1) Table of Contents.

(a) List section headings and their respective page numbers;

(b) List of tables with page numbers;

(c) List of figures with page numbers;

(d) List of attachments, numbered;

(e) List of references.

(2) Site Location Map. The site location map (minimum USGS 1:24000 quadrangle topographic map), shall be as required for the preliminary storm water plan, updated to reflect additional data or revisions to concepts established in preliminary storm water plan.

(3) Development Plan. The development plan, which can be combined with the final engineering plans, shall be as required for the preliminary storm water plan with the following additional information:

(a) Delineate subbasins and show sub-basin acreage used in hydraulic/hydrologic calculations;

(b) Existing and proposed contours (two-foot maximum contour interval);

(c) Show directions and lengths of overland, pipe, and channel flow;

(d) Indicate outfall points and overflow routes for the 100-year storm;

(e) Show storage volumes, pipe and weir invert elevations, and lengths of weir for storm water control facilities;

(f) Show all existing and proposed easements and rights-of-way.

(4) Soils Map. A soils map as required for the preliminary storm water plan.

(5) Section A – Project Overview.

(a) Identify and discuss existing storm water system functions.

(b) Identify and discuss site parameters influencing storm water system design.

(c) Describe drainage to and from adjacent properties.

(d) Generally describe proposed site construction, size of improvements, and proposed methods of mitigating storm water runoff quantity and quality impacts.

(6) Section B – Approval Conditions Summary. List each preliminary approval condition related to storm water control, wetlands, flood plains, and other water-related issues and explain how design addresses or conforms to each condition.

(7) Section C – Downstream Analysis. If this information is required in accordance with LCMC

14.10.220(2)(c), then the analysis shall include:

(a) Reference downstream analysis provided in the preliminary storm water plan and identify any revisions to this analysis.

(b) Identify criteria and assumptions used in completing downstream analysis and their sources.

(c) Complete detailed hydrologic analysis of manmade and natural downstream system in accordance with LCMC 14.10.220. Compute existing and proposed peak flows and volumes for the design storms at all discharge points both to and from the site and at downstream storm water control structures. Calibrate and verify hydrologic models using existing rainfall and stream flow records, where available. Verify reasonableness of results by comparison with results from alternative engineering methods and comparison with available reports and studies. Discharge points should refer to labeled points shown on the site location map.

(d) Tabulate existing and proposed peak flows and volumes. Include and reference all hydrologic and hydraulic computations in the technical appendix.

(e) Verify hydrologic and hydraulic computations in the field by observation and measurement of significant rainfall events, where possible, evaluation of stream erosion, high water marks (e.g., lines of permanent vegetation and debris lines) and other hydrologic and hydraulic verification techniques. State whether the downstream system is at capacity and describe how runoff from the proposed project will impact the capacity of the system. Describe how the design of the storm water facilities on the development site addresses the impacts.

(8) Section D – Quantity Control Analysis and Design.

(a) Hydrologic analysis, existing and developed conditions:

(i) Identify criteria used in completing analyses and their sources.

(ii) Identify and discuss any assumptions made in completing analysis.

(iii) Tabulate acreage; imperviousness; curve number; length and grade of overland, pipe, and channel flow; and other hydrologic parameters used in completing analyses.

(iv) Complete detailed hydrologic analysis for existing and developed site conditions in accordance with the requirements of LCMC 14.10.220. Compute existing and developed peak flows and volumes for the design storms for all subbasins. Refer to labeled points shown on the site location map and development plan.

(v) Include and reference all hydrologic and hydraulic computations in the technical appendix.

(vi) Include all maps, exhibits, graphics, and references used to determine existing and developed site hydrology.

(b) Quantity Control System Design.

(i) Reference conceptual design proposed in the preliminary storm water plan.

(ii) Identify revisions to conceptual design contained within the final engineering plans.

(iii) Identify and discuss geotechnical or pedological study or information used in completing analysis and design.

(iv) Identify criteria used in completing analyses and their sources.

(v) Identify initial conditions including stream base flows, beginning water surface elevations, hydraulic or energy grade fines, initial ground water elevation, beginning storage volumes, and other data or assumptions used to determine initial conditions in order to complete analyses. Reference sources of information.

(vi) Identify and discuss any assumptions used in completing analysis.

(vii) Complete detailed hydrologic/ hydraulic analysis of all on-site storm water control

facilities impacted by the proposal, in accordance with the requirements of LCMC 14.10.220. Compute inflow and outflow hydrographs and peak flows and storage volumes. Reference conveyance and storm water control facilities to labeled points shown on the development plan.

(viii) Tabulate existing and proposed peak flows and storage volumes.

(ix) Include and reference all hydrologic and hydraulic computations, equations, rating curves, stage/storage/discharge tables, graphs and any other aides necessary to clearly show methodology and results in the technical appendix.

(x) Summarize results of quantity control system analyses and describe how the proposed design meets the requirements of this chapter.

(xi) Include all maps, exhibits, graphics and references used to complete quantity control system analysis and design.

(c) Quantity Control System Plan.

(i) Provide illustrative sketch of quantity control facility and its appurtenances.

(ii) Show basic measurements necessary to confirm storage volumes.

(iii) Show all orifice, weir, and flow restrictor dimensions and elevations.

(iv) Tabulate peak flow rates, storage volumes, and ponding elevations for all design storms.

(v) Sketch shall correspond with final engineering plans. Alternatively, final site grading plan incorporating the above information may be included as an attachment to the final storm water plan.

(9) Section E – Conveyance Systems Analysis and Design.

(a) Reference conceptual drainage design proposed in the preliminary storm water plan.

(b) Identify revisions to conceptual drainage design contained within the final storm water plan.

(c) Identify criteria used in completing analyses and their sources.

(d) Identify and discuss initial conditions including stream base flows, beginning water surface elevations, hydraulic or energy grade lines, beginning storage elevations, and other data or assumptions used to determine initial conditions in order to complete analyses. Reference sources of information.

(e) Identify and discuss assumptions used in completing analyses.

(f) Complete detailed hydraulic analysis of all proposed collection and conveyance system elements and existing collection and conveyance elements influencing the design or impacted by the proposal, including outfall structures and outlet protection, in accordance with LCMC 14.10.220. Compute and tabulate design flows and velocities and conveyance element capacities for all conveyance elements within the development. Compute existing 100-year floodplain elevations and lateral limits for all channels, and verify no net loss of conveyance or storage capacity from development. Reference conveyance system elements to labeled points shown on the site location map or development plan.

(g) Verify capacity of each conveyance system element to convey design flow and discharge at non-erosive velocities. Verify capacity of on-site conveyance system to convey design flows resulting from ultimate buildout of upstream areas.

(h) Include and reference all hydraulic computations, equations, pipe flow tables, flow profile computations, charts, nomographs, detail drawings and other tabular or graphic aids used to design and confirm performance of conveyance systems in the technical appendix.

(i) Summarize results of system analyses and describe how the proposed design meets the requirements of this chapter.

(10) Section F – Water Quality Design.

(a) Reference conceptual water quality design proposed in the preliminary storm water plan.

(b) Identify revisions to conceptual water quality design contained within the final storm water plan.

(c) Identify geotechnical or soils study or other information used in completing analysis and design.

(d) Identify best management practices used in design and their sources.

(e) Identify and discuss initial conditions including ground water elevations, beginning storage elevations, and other data or assumptions used to determine initial conditions in order to complete analyses. Reference sources of information.

(f) Identify and discuss assumptions used in completing analysis.

(g) Complete detailed analysis and design of all proposed water quality system elements in accordance with LCMC 14.10.210. Reference water quality system elements to labeled points shown on the site location map or development plan.

(h) Include and reference all computations, equations, charts, nomographs, detail drawings and other tabular or graphic aids used to design water quality system elements in the technical appendix.

(i) Summarize results of water quality design and describe how the proposed design meets the requirements of this chapter.

(11) Section G – Soils Evaluation.

(a) Identify on-site soil types and their erosive potential and discuss their suitability for implementation of proposed best management practices (BMPs) and quantity control facilities.

(b) Identify seasonal high water table elevations in cases where this will impact the storm water facilities.

(c) Identify and discuss soil parameters and design methods for use in hydrologic and hydraulic design of proposed facilities.

(d) Where infiltration BMPs are proposed, complete soil tests to determine the infiltration rates. In some cases the city may require additional geotechnical investigation, in accordance with the requirements of Section III-3.3.3 of the Puget Sound Manual.

(12) Section H – Special Reports and Studies. Where specific site characteristics, such as steep slopes, wetlands, and sites located in wellhead protection areas pose difficult drainage and water quality design problems, the city may require additional information or the preparation of special reports and studies which further address the specific site characteristics, the potential for impacts associated with the development, and the measures which would be implemented to mitigate impacts. Special reports shall be prepared by professional persons with expertise in the particular area of analysis, who shall date, sign, stamp and otherwise certify the report. Subjects of special reports may include, but not be limited to, the following:

(a) Geotechnical/pedological;

(b) Wetlands;

(c) Floodplains and floodways;

(d) Ground water;

(e) Structural design;

(f) Fluvial geomorphology (erosion and deposition).

All special reports and studies shall be included in the technical appendix, or as an attachment to the TIR.

(13) Section I – Other Permits. Construction of roads and storm water facilities may require additional water-related permits from other agencies. These additional permits may contain requirements that impact design of the storm water system. This section shall list the titles of all other required permits, the agencies requiring the permits, and identify the permit requirements, if known, that affect the final storm water plan. Approved permits that are critical to the feasibility of the storm water facility

design shall be included in this section. Examples of other permits are as follows:

(a) Wetland permit;

(b) On-site sewage disposal: Southwest Washington Health Department or Washington Department of Health;

(c) Developer/local agency agreement: Washington State Department of Transportation;

(d) Short-term water quality modification approval: Washington State Department of Ecology;

(e) Hydraulic project approval: Washington State Departments of Fisheries and Wildlife;

(f) Dam safety permit: Washington State Department of Ecology;

(g) Section 10, 404, and 103 permits: U.S. Army Corps of Engineers;

(h) Surface mining reclamation permits: Washington State Department of Natural Resources;

(i) Floodplain permit;

(j) Shoreline management permit.

(14) Section J – Ground Water Monitoring Program. Where required under LCMC 14.10.210, a ground water monitoring program shall be included in the final storm water plan. The ground water monitoring program shall be prepared by a person with expertise in ground water contamination investigation, prevention, and monitoring, and shall clearly describe a comprehensive ground water testing and evaluation program designed to ensure compliance with federal and state of Washington laws and the requirements of this chapter. Proposed ground water monitoring programs will be reviewed by the city on a site-specific basis.

(15) Section K – Maintenance and Operations Manual. For each storm water control or treatment facility which is to be privately maintained and for those which constitute an experimental system under LCMC 14.10.210(7) to be maintained by the city, the project engineer shall prepare a maintenance and operations manual. The manual, which may be brief, shall be clearly written in an orderly and concise format that clearly describes the design and operation of the facility. The manual shall also provide an outline of required maintenance tasks with recommended frequencies at which each task should be performed. Use of the maintenance procedures outlined in the Puget Sound Manual for various BMPs is encouraged.

(16) Section L – Technical Appendix. All technical information reports shall contain a technical appendix, including all computations completed in the preparation of the TIR together with copies of referenced data, charts, graphs, nomographs, hydrographs, maps, exhibits, and all other information required to clearly describe the storm water runoff quantity and quality design for the proposed project. The format of the technical appendix shall follow as closely as possible the section format of the TIR, and shall be adequately cross-referenced to ensure that the design may be easily followed, checked, and verified. The technical appendix shall also contain all special reports and studies, other than those included as attachments to the TIR. [Ord. 98-7 § 1, 1998.]

14.10.420 Contents of an abbreviated preliminary storm water plan.

An abbreviated preliminary storm water plan is allowed for certain projects specified in LCMC 14.10.350. These plans shall contain the information listed below. All maps shall contain a scale and north arrow. Insuring the accuracy of all the information is the applicant’s responsibility.

(1) Vicinity Maps. All vicinity maps shall clearly show the site of the development activity or drainage project.

(a) Site Location Map. Minimum USGS 1:24000 quadrangle topographic map showing natural and manmade drainage features adjacent to site including existing and proposed (if known) storm water

facilities.

(b) Other Maps. The following additional vicinity maps shall be required in the situations noted below:

(i) Floodplains. If a floodplain mapped by FEMA exists on or adjacent to the site.

(ii) Shoreline Management Area. If the site contains or is adjacent to a stream or lake regulated under the State Shorelines Management Act.

(2) Preliminary Development Plan. The preliminary development plan shall show the character of the existing site and proposed features, including but not limited to:

(a) Existing and proposed property boundaries, easements and rights-of-way;

(b) Existing contours with a five-foot maximum contour interval, unless the city determines a lesser interval is sufficient to show drainage patterns;

(c) Existing on-site water wells, known agricultural drain tiles, areas of potential slope instability, structures, utilities, and septic tanks and drainfields;

(d) Location of the 100-year floodplain and floodways and shoreline management area limits on the site;

(e) Existing water resource features on and adjacent to the site including streams, wetlands, springs, sinks, and storm water facilities;

(f) Drainage flow routes and existing discharge points to and from the site; and

(g) Approximate location and size of proposed storm water facilities, including typical cross-sections of proposed facilities.

(3) Additional Site and Vicinity Information.

(a) If wetlands exist on the site and will be impacted by the proposal, a wetland delineation report may be required.

(b) If unstable or complex soil conditions exist which may significantly impact the design of the storm water facilities, the city may require a preliminary soils report to be completed that addresses storm water design considerations arising from soil conditions.

(c) The city may require additional site or vicinity information if needed to determine the feasibility of the storm water proposal.

(4) Preliminary Storm Water Design Report. A written narrative shall be required to accompany the preliminary storm water plan. The narrative shall describe the methods for meeting the requirements of this chapter and include the following information:

(a) Listing of approximate volumes of runoff storage required;

(b) Listing of tested percolation rates at sites to be used for infiltration, if required;

(c) Listing of proposed BMPs which will meet the treatment requirements of this chapter and are appropriate for the site;

(d) Description of the approximate size and location of storm water facilities on the site;

(e) Discussion of who will maintain the facility(s) after completion and proposed method of funding for maintenance if the facility(s) will be privately maintained; and

(f) Listing of additional permits (e.g., wetland, floodplain, and shoreline management permits) that may be required in connection with the storm water facilities. [Ord. 98-7 § 1, 1998.]

Article V. Adopted Basin Plans

14.10.500 Reserved.

[Ord. 98-7 § 1, 1998.]

Chapter 14.15
ENVIRONMENTAL POLICY

Sections:

Article VIII. Definitions

Article IX. Categorical Exemptions

Article X. Agency Compliance

Article XI. Forms

Article XII. Miscellaneous

Article I. Authority

14.15.010 Purpose.

The city of La Center adopts this chapter under the State Environmental Policy Act (SEPA) RCW 43.21C.120, and the SEPA rules, WAC 197-11-904. The SEPA rules, Chapter 197-11 WAC, must be used in conjunction with this chapter. [Ord. 98-3 § 1, 1998.]

Article II. General Requirements

14.15.020 Purpose of this article and adoption by reference.

This article contains the basic requirements that apply to the SEPA process. The city adopts the following sections of Chapter 197-11 of the Washington Administrative Code by reference:

WAC	
197-11-040	Definitions.
197-11-050	Lead agency.
197-11-055	Timing of the SEPA process.

197-11-060 Content of environmental review.
197-11-070 Limitations on actions during SEPA process.
197-11-080 Incomplete or unavailable information.
197-11-090 Supporting documents.
197-11-100 Information required of applicants.
197-11-158 GMA project review, reliance on existing plans and regulations.
197-11-210 SEPA/GMA integration.
197-11-220 SEPA/GMA definitions.
197-11-228 Overall SEPA/GMA integration procedures.
197-11-230 Timing of an integrated GMA/SEPA process.
197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping.
197-11-235 Documents.
197-11-238 Monitoring.
197-11-250 SEPA/Model Toxics Control Act integration.
197-11-253 SEPA lead agency for MTCA actions.
197-11-256 Preliminary evaluation.
197-11-259 Determination of nonsignificance for MTCA remedial actions.
197-11-262 Determination of significance and EIS for MTCA remedial actions.
197-11-265 Early scoping for MTCA remedial actions.
197-11-268 MTCA interim actions.

[Ord. 98-3 § 1, 1998.]

14.15.030 Additional definitions.

In addition to those definitions contained within WAC 197-11-700 through 197-11-799, and WAC 197-11-220, when used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

(1) “Department” means any division, subdivision or organizational unit of the city established by ordinance, resolution, rule or order.

(2) “Early notice” means the city’s response to an applicant stating whether the city considers issuance of a determination of significance (DS) likely for the applicant’s proposal (mitigated determination of nonsignificance (DNS) procedures).

(3) “Ordinance” means this chapter, and may include any city ordinance, resolution, or other procedure used by La Center to adopt regulatory requirements.

(4) “SEPA rules” means Chapter 197-11 WAC adopted by the Department of Ecology. [Ord. 98-3 § 1, 1998.]

14.15.040 Designation of responsible official.

(1) For proposals for which the city is the lead agency, the responsible official shall be the mayor or mayor’s designee.

(2) For all proposals for which the city is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required EIS, and perform any other functions assigned to the “lead agency” or “responsible official” by those sections of the SEPA rules adopted by reference in this chapter.

(3) The city shall retain all documents required by the SEPA rules, and shall make them available to the public in accordance with Chapter 42.17 RCW. [Ord. 98-3 § 1, 1998.]

14.15.050 Lead agency determination and responsibilities.

(1) The department within the city receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050, 197-11-253, and WAC 197-11-922 through 197-11-940, unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.

(2) When the city is the lead agency for a proposal, the department receiving the application shall determine the responsible official who shall supervise compliance with the threshold determination requirements and if an EIS is necessary, shall supervise preparations of the EIS.

(3) When the city is not the lead agency for a proposal, all departments of the city shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No city department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless it finds it to be required under criteria of WAC 197-11-600. In some cases, the city may conduct supplemental environmental review under WAC 197-11-600.

(4) If the city or any of its departments receives a lead agency determination made by another agency that appears to it to be inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and be resolved within 15 days of receipt of the determination, or the city can, within such 15-day period, petition the Department of Ecology for a lead agency determination under WAC 197-11-946. Any such petition on behalf of the city shall be initiated by the city mayor or the mayor's designee.

(5) Departments of the city are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944.

(6) Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal. (That is: Which agencies require nonexempt licenses?).

(7) When the city of La Center is lead agency for a MTCA remedial action, the Department of Ecology shall be provided an opportunity under WAC 197-11-253(5) to review the environmental documents prior to public notice being provided. If the SEPA and MTCA documents are issued together with one public comment period under WAC 197-11-253(6), the city shall decide jointly with Ecology who receives the comment letters and how copies of the comment letters will be distributed to the other agency. [Ord. 98-3 § 1, 1998.]

14.15.060 Transfer of lead agency status to a state agency.

(1) For any proposal for a private project where the city would be the lead agency and for which one or more state agencies have jurisdiction, the city's responsible official may elect to transfer the lead agency duties to the state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency and the city shall be an agency with jurisdiction.

(2) To transfer lead agency duties, the city's responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official of the city shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal. [Ord. 98-3 § 1, 1998.]

14.15.070 Additional timing considerations.

For nonexempt proposals, final EIS for the proposal shall accompany the city staff recommendation to any appropriate advisory body, such as the planning commission hearings officer, or city council. [Ord. 98-3 § 1, 1998.]

Article III. Categorical Exemptions and Threshold Determinations

14.15.080 Purpose of this article and adoption by reference.

This article contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This article also contains rules for evaluating the impacts of proposals not requiring an EIS. The city adopts the following sections of the SEPA rules by reference, as supplemented in this part:

WAC

197-11-300	Purpose of this part, relating to categorical exemptions and threshold determinations.
197-11-305	Categorical exemptions.
197-11-310	Threshold determination required.
197-11-315	Environmental checklist.
197-11-330	Threshold determination process.
197-11-335	Additional information.
197-11-340	Determination of nonsignificance (DNS).
197-11-350	Mitigated DNS.
197-11-360	Determination of significance (DS)/initiation of scoping.
197-11-390	Effect of threshold determination.

[Ord. 98-3 § 1, 1998.]

14.15.090 Flexible thresholds for categorical exemptions.

(1) The city of La Center establishes the following exempt levels for minor new construction not occurring in critical areas under:

(a) For residential dwelling units in WAC 197-11-800(1)(b)(i): up to four dwelling units.

(b) For agricultural structures in WAC 197-11-800(1)(b)(ii): those containing up to 10,000 square feet.

(c) For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): up to 4,000 square feet and up to 20 parking spaces.

(d) For parking lots in WAC 197-11-800(1)(b)(iv): up to 20 parking spaces.

(e) For landfills and excavations in WAC 197-11-800(1)(b)(v): up to 300 cubic yards. [Ord. 98-3 § 1, 1998.]

14.15.100 Use of exemptions.

(1) Each department within the city which receives an application for a license or, in the case of governmental proposals, the department which initiates the proposal, shall determine whether the license

and/or proposal is exempt. The department's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter applies to the proposal. The city shall not require completion of an environmental checklist for an exempt proposal.

(2) In determining whether or not a proposal is exempt, the department shall make certain the proposal is properly defined and shall identify the governmental licenses required by WAC 197-11-060. If a proposal includes exempt and also nonexempt actions, the department shall determine the lead agency, even if the license application which triggered the department's consideration is exempt.

(3) If a proposal includes both exempt and nonexempt actions, the city may authorize the exempt actions to proceed prior to compliance with the procedural requirements of this chapter, except that:

(a) The city shall not give authorization for:

(i) Any nonexempt action;

(ii) Any action that would have an adverse environmental impact; or

(ii) Any action that would limit the choice of reasonable alternatives (see WAC 197-11-070);

(b) A department may withhold approval of an exempt action which would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) subsequently were not approved; and

(c) A department may withhold approval of exempt actions which would lead to substantial financial expenditure by a private applicant when the expenditures would serve no purpose if nonexempt action(s) subsequently were not approved. [Ord. 98-3 § 1, 1998.]

14.15.110 Environmental checklist.

(1) A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this chapter; provided, a checklist is not needed if the city and applicant agree an EIS is required, or if SEPA compliance has been completed, or if SEPA compliance has been initiated by another agency. The city shall use the environmental checklist to determine the lead agency and, if the city is the lead agency, for determining the responsible official and for making the threshold determination.

(2) For private proposals, the city will require the applicant to complete the environmental checklist, providing assistance as is necessary. For city proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

(3) The city may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

(a) The city has technical information on a question or questions that is unavailable to the private applicant; or

(b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration. [Ord. 98-3 § 1, 1998.]

14.15.120 Mitigated determination of nonsignificance (DNS).

(1) As provided in this section and in WAC 197-11-350, the responsible official may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

(2) An applicant may request in writing early notice of whether a determination of significance (DS)

is likely under WAC 197-11-350. The request must:

(a) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

(b) Precede the city's actual threshold determination for the proposal.

(3) The responsible official should respond to the request for early notice within 15 working days. The response will:

(a) Be written;

(b) State whether the city currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that are leading the city to consider a DS; and

(c) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

(4) As much as possible, the city should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

(5) When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the city shall base its threshold determination on the changed or clarified proposal and should make the determination within 15 days of receiving the changed or clarified proposal:

(a) If the city indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the city shall issue and circulate a DNS under WAC 197-11-340(2).

(b) If the city indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the city shall make the threshold determination, issuing a DNS or DS as appropriate.

(c) The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate.

(d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

(6) A mitigated DNS is issued under WAC 197-11-340(2), requiring a 14-day comment period and public notice.

(7) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the city.

(8) If the city's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the city should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).

(9) The city's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the city to consider the clarifications or changes in its threshold determination. [Ord. 98-3 § 1, 1998.]

Article IV. Environmental Impact Statement (EIS)

14.15.130 Purpose of this article and adoption by reference.

This article contains the rules for preparing environmental impact statements. The city adopts the following sections of SEPA rules by reference, as supplemented by this part:

WAC

197-11-400	Purpose of EIS.
197-11-402	General requirements of an EIS.
197-11-405	EIS types.
197-11-406	EIS timing.
197-11-408	Scoping.
197-11-410	Expanded scoping. (optional)
197-11-420	EIS preparation.
197-11-425	Style and size.
197-11-430	Format.
197-11-435	Cover letter or memo.
197-11-440	EIS contents.
197-11-442	Contents of EIS on nonproject proposals.
197-11-443	EIS contents when prior nonproject EIS.
197-11-444	Elements of the environment.
197-11-448	Relationship of EIS to other considerations.
197-11-450	Cost-benefit analysis.
197-11-455	Issuance of DEIS.
197-11-460	Issuance of FEIS.

[Ord. 98-3 § 1, 1998.]

14.15.140 Preparation of EIS – Additional considerations.

(1) Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the mayor or the mayor's designee. Before the city issues an EIS, the responsible official shall be satisfied that it complies with this chapter and Chapter 197-11 WAC.

(2) The DEIS and FEIS or draft and final SEIS shall be prepared by city staff, the applicant, or by a consultant selected by the city or the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the city will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the city's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.

(3) The city may require an applicant to provide information the city does not possess and may require the applicant to make specific investigations. However, the applicant is not required to supply information that is not required under this ordinance or that is being requested from another agency. (This does not apply to information the city may request under another ordinance or statute.) [Ord. 98-3 § 1, 1998.]

14.15.150 Additional elements which may be covered in an EIS.

The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under this chapter:

(1) Economy;

(2) Social policy analysis;

(3) Cost-benefit analysis;

(4) Consistency with the city's adopted comprehensive plan, capital facilities plan, and other adopted plans, regulations and standards;

(5) The criteria for determining whether the proposal is consistent with adopted plans, policies, regulations, and standards are:

(a) The type of land use allowed,

(b) The level of development allowed,

(c) The adequacy of public infrastructure, and

(d) The characteristics of the proposed development.

The lead agency may include, in an EIS or appendix, the analysis of any impact relevant to the agency's decision, whether or not environmental. The inclusion of such analysis may be based upon comments received during the scoping process. The provision for combining documents may be used (WAC 197-11-640). The EIS shall comply with the format requirements of this part. The decision whether to include such information and the adequacy of any such additional analysis shall not be used in determining whether an EIS meets the requirements of SEPA. [Ord. 98-3 § 1, 1998.]

Article V. Commenting

14.15.160 Adoption by reference.

This part contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The city adopts the following sections by reference, as supplemented in this part:

WAC	
197-11-500	Purpose of this part.
197-11-502	Inviting comment.
197-11-504	Availability and cost of environmental documents.
197-11-508	SEPA register.
197-11-510	Public notice.
197-11-535	Public hearings and meetings.
197-11-545	Effect of no comment.
197-11-550	Specificity of comments.
197-11-560	FEIS response to comments.
197-11-570	Consulted agency costs to assist lead agency.

[Ord. 98-3 § 1, 1998.]

14.15.170 Public notice.

(1) Whenever possible, the city of La Center shall integrate the public notice required under this section with existing notice procedures for the city's nonexempt permit(s) or approval(s) required for the

proposal.

(2) Whenever the city issues a DNS under WAC 197-11-340(2), and MDNS under WAC 197-11-350, or a DS under WAC 197-11-360(3), the city shall give public notice pursuant to the Type II procedures described in LCMC 17.200.060 and 17.200.090 as follows:

(a) If an environmental document is issued concurrently with the notice of application, the public notice requirements for the notice of application in RCW 36.70B.110(4) will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1).

(b) If no public notice is otherwise required for the permit or approval, the city shall give notice of the DNS or DS by:

(i) Posting the property, for site-specific proposals;

(ii) Posting notice in a conspicuous place at City Hall.

(c) Whenever the city issues a DS under WAC 197-11-360(3), the city shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

(3) If a DNS is issued using the optional DNS process, the public notice requirements for a notice of application in RCW 36.70B.110 (4) as supplemented by the requirements in WAC 197-11-355 will suffice to meet the SEPA public notice requirements in WAC 197-11-510(b).

(4) Whenever the city issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

(a) Indicating the availability of the DEIS in any public notice required for a nonexempt license;

(b) Posting the property, for site-specific proposals;

(c) Publishing notice in a newspaper of general circulation in Clark County;

(d) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered; and

(e) Posting public notice in a conspicuous place at City Hall and two other prominent locations within the city limits.

(5) The city may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense. [Ord. 98-3 § 1, 1998.]

14.15.180 Designation of official to perform consulted agency responsibilities for the city.

(1) The mayor or the mayor's designee shall be responsible for preparation of written comments for the city in response to a consultation request prior to a threshold determination, participation in scoping, and or reviewing a draft EIS.

(2) The mayor or the mayor's designee shall be responsible for the city's compliance with WAC 197-11-550 whenever the city is a consulted agency and the mayor or the mayor's designee is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the city. [Ord. 98-3 § 1, 1998.]

Article VI. Using Existing Environmental Documents

14.15.190 Purpose of this article and adoption by reference.

This article contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA), for the city's own environmental compliance. The city adopts the following sections of SEPA rules by reference:

WAC	
197-11-600	When to use existing environmental documents.
197-11-610	Use of NEPA documents.
197-11-620	Supplemental environmental impact statement – Procedures.
197-11-625	Agenda – Procedures.
197-11-630	Adoption – Procedures.
197-11-635	Incorporation by reference – Procedures.
197-11-640	Combining documents.

[Ord. 98-3 § 1, 1998.]

Article VII. SEPA and Agency Decisions

14.15.200 Purpose of this article and adoption by reference.

This article contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This article also contains procedures for appealing SEPA determinations to agencies or the courts. The city adopts the following sections of SEPA rules by reference:

WAC	
197-11-650	Purpose of this part.
197-11-655	Implementation.
197-11-660	Substantive authority and mitigation.
197-11-680	Appeals.

[Ord. 98-3 § 1, 1998.]

14.15.210 Substantive authority.

(1) The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the city of La Center.

(2) The city may attach conditions to permit or approval for a proposal so long as:

(a) Such conditions are necessary to mitigate specific, probable, significant, and adverse environmental impacts; and

(b) Such conditions are in writing; and

(c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

(d) The city has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

(e) Such conditions are based on one or more policies in subsection (4) below and are cited in the license or other decision document.

(3) The city may deny a permit or approval for any proposal on the basis of SEPA so long as:

(a) A finding has been made by the responsible official that the proposal, if approved, would result in probable, significant, adverse environmental impacts identified in a final EIS, or final supplemental EIS prepared pursuant to this chapter; and

(b) A finding is made that there are no reasonable mitigation measures capable of being accomplished sufficient to mitigate the identified impact; and

(c) The denial is based on one or more policies stated in subsection (4) below and which are identified in writing in the decision document.

(4) The city designates and adopts the following policies as the basis for the city's exercise of authority pursuant to this section:

(a) The city shall use all practicable means, consistent with other essential considerations of city and state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and city and their citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington the state of and/or city safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve important historic, cultural, and natural aspects of our national and local heritage;

(v) Maintain, whenever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(b) The city recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(c) The city adopts by reference the policies in the following city plans, policies, regulations, standards and resolutions:

(i) LCMC Title 16, Subdivisions;

(ii) LCMC Title 17, Zoning;

(iii) La Center Comprehensive Plan and Plan Map;

(iv) La Center Capital Facilities Plan;

(v) Chapter 14.10 LCMC, Storm Water and Erosion Control;

(vi) Chapter 14.05 LCMC, Wetlands; and

(vii) Chapter 12.10 LCMC, La Center Road Standards. [Ord. 98-3 § 1, 1998.]

14.15.212 Appeals.

(1) The city of La Center establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:

(a) Any appeal of an action taken by the city of La Center shall be made in accord with Chapter 17.200 LCMC, Appeals. Where this section or Chapter 17.200 LCMC is silent or ambiguous, the city shall consult WAC 197-11-680 to determine appropriate appeals procedure.

(b) Unless otherwise directed by WAC 197-11-680, the city shall attempt to consolidate appeals of SEPA substantive or procedural determinations and of local land use decisions.

(c) The time limit for commencing an appeal of a city decision shall be 14 days from the effective date of the decision. A person with standing may appeal a city decision at any time prior to the

end of the effective date of a decision.

(d) An appeal of the intermediary steps under SEPA (e.g., lead agency determination, scoping or draft EIS adequacy) shall not be allowed. [WAC 197-11-680(3)(a)(ii).]

(2) For any appeal under this subsection, the city shall provide for a record that shall consist of the following:

(a) Findings and conclusions;

(b) Testimony under oath; and

(c) A taped or written transcript.

(3) The city may require the appellant to provide an electronic transcript.

(4) The procedural determination by the city's responsible official shall carry substantial weight in any appeal proceeding.

(5) The city shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

(6) The fee for an appeal of a SEPA decision shall be one-half of the fee charged the applicant under LCMC 14.15.200 for processing the SEPA review. [Ord. 98-3 § 1, 1998.]

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-170, filed 6/15/84. Formerly chapter 173-805 WAC.]

14.15.215 Notice/statute of limitations.

(1) The city of La Center, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

(2) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the city clerk or county auditor, applicant or proponent pursuant to RCW 43.21C.080. [Ord. 98-3 § 1, 1998.]

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-173, filed 6/15/84. Formerly WAC 173-805-135.]

Article VIII. Definitions

14.15.220 Purpose of this article and adoption by reference.

This article contains uniform usage and definitions of terms under SEPA. The city adopts the following sections by reference:

WAC

197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action.
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.

197-11-720	Categorical exemption.
197-11-721	Closed record appeal.
197-11-722	Consolidated appeal.
197-11-724	Consulted agency.
197-11-726	Cost-benefit analysis.
197-11-728	County/city.
197-11-730	Decision maker.
197-11-732	Department.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).
197-11-738	EIS.
197-11-740	Environment.
197-11-742	Environmental checklist.
197-11-744	Environmental document.
197-11-746	Environmental review.
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Lands covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
197-11-775	Open record hearing.
197-11-776	Phased review.
197-11-778	Preparation.
197-11-780	Private project.
197-11-782	Probable.
197-11-784	Proposal.
197-11-786	Reasonable alternative.
197-11-788	Responsible official.
197-11-790	SEPA.
197-11-792	Scope.
197-11-793	Scoping.
197-11-794	Significant.
197-11-796	State agency.
197-11-797	Threshold determination.
197-11-799	Underlying governmental action.

[Ord. 98-3 § 1, 1998.]

Article IX. Categorical Exemptions

14.15.230 Adoption by reference.

The city adopts by reference the following rules for categorical exemptions, as supplemented in this chapter, including: WAC 173-806-070 (Flexible thresholds), WAC 173-806-080 (Use of exemptions) and WAC 173-806-190 (Critical areas):

WAC

197-11-800	Categorical exemptions.
197-11-880	Emergencies.
197-11-890	Petitioning DOE to change exemptions.

[Ord. 98-3 § 1, 1998.]

14.15.232 Local categorical exemption.

The city of La Center shall exempt the following land use reviews from this chapter where the proposed development will not occur wholly or partially on critical areas:

(1) Preapplication land use review: LCMC 17.200.020.

(2) Type I and Type II administrative decision including LCMC 17.200.050 and 17.200.060 except where the mayor or the mayor's designee determines that the proposal is likely to impact a critical area or critical area buffer. [Ord. 98-3 § 1, 1998.]

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-180, filed 6/15/84. Formerly WAC 173-805-020.]

14.15.235 Critical areas.

(1) Within the city of La Center, the categorical exemptions enumerated in WAC 197-11-800 and LCMC 14.15.180 will not apply in one or more critical areas identified in city plans, regulations and maps adopted pursuant to RCW 36.70A.060. The critical areas identified on the city's adopted comprehensive plan map or independent critical areas map(s) include: wetlands, floodways and floodpaths, riparian areas, habitat for threatened or endangered species, local habitat conservation areas, wellhead protection areas, critical aquifer recharge areas, geologically hazardous areas, steep slopes, historic and archaeological resources, and any adopted buffer area adjacent to the critical area.

(2) Where a proposal may occur wholly or partially on any critical area identified in the previous subsection, the mayor or mayor's designee may determine that the proposal is either:

(a) A segment of a proposal that includes a series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not [WAC 197-11-305(1)(b)(i)]; or

(b) A segment of a proposal which includes a series of exempt activities that are physically or functionally related to each other, and that together may have a probable significant adverse impact [WAC 197-11-305(1)(b)(ii)]; or

(c) A single action which may probably have a significant adverse impact on two or more critical areas.

(3) Pursuant to WAC 197-11-908(2), the following proposals, notwithstanding the categorical

exemptions allowed under WAC 197-11-800, may be subject to review under this chapter if the proposal is subject to subsection (2) of this section:

(a) Minor new construction as described in WAC 197-11-800(1)(a)(b) and LCMC 14.15.090 (flexible thresholds for categorical exemptions);

(b) Other minor new construction as described in WAC 197-11-800(2)(a) through (f);

(c) Repair, remodeling and maintenance activities described in WAC 197-11-800(3);

(d) Purchase or sale of real property described in WAC 197-11-800(5);

(e) Short plats not including further short subdivisions or short platting within a plat or subdivision previously exempted from SEPA review as described in WAC 197-11-800(6)(a);

(f) Licenses to operate or engage in amusement and entertainment activities as described in WAC 197-11-800(14)(c);

(g) Utility related actions as described in WAC 197-11-800(24)(a) through (g); and

(h) Natural resource management including development of recreational sites [WAC 197-11-800(25)(f)] and use of chemical and mechanical means to maintain public park and recreational land [WAC 197-11-800 (25)(i)].

(4) The scope of environmental review of actions within these areas shall be limited to:

(a) Documenting whether the proposal is consistent with the requirements of the critical areas ordinance; and

(b) Evaluating potentially significant impacts on the critical area resources not adequately addressed by GMA planning documents and development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and with other applicable environmental review laws.

(5) All categorical exemptions not listed in subsection (3) apply whether or not the proposal will be located in a critical area. [Ord. 98-3 § 1, 1998.]

Article X. Agency Compliance

14.15.240 Purpose of this article and adoption by reference.

This article contains rules for city compliance with SEPA, including rules for charging fees under the SEPA process, designating categorical exemptions that do not apply within critical areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The city adopts the following sections by reference:

WAC

197-11-900	Purpose of this part; agency compliance.
197-11-902	Agency SEPA policies.
197-11-916	Application to ongoing actions.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determining the lead agency.
197-11-926	Lead agency for governmental proposals.
197-11-928	Lead agency for public and private proposals.
197-11-930	Lead agency for private projects with one agency with jurisdiction.
197-11-932	Lead agency for private projects requiring licenses from more than one agency,

when one of the agencies is a county/city.

197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.

197-11-936 Lead agency for private projects requiring licenses from more than one state agency.

197-11-938 Lead agency for specific proposals.

197-11-940 Transfer of lead agency status to a state agency.

197-11-942 Agreements on lead agency status.

197-11-944 Agreements on division of lead agency duties.

197-11-946 DOE resolution of lead agency disputes.

197-11-948 Assumption of lead agency status.

[Ord. 98-3 § 1, 1998.]

14.15.250 Fees.

The city shall require the following fees for its activities in accordance with the provisions of this chapter:

(1) Threshold Determination. For every environmental checklist the city will review when it is lead agency, the city shall collect a fee of $150.00 from the proponent for the proposal prior to undertaking the threshold determination. The time periods provided by this chapter for making a threshold determination shall not begin to run until payment of the fee. When the city completes the environmental checklist at the applicant's request or under LCMC 14.15.110, an additional, $150.00 shall be collected.

(2) Mitigated Determination of Nonsignificance (MDNS). Where the city is the lead agency and the city issues a threshold determination of MDNS, the city shall charge the applicant for all administrative and professional costs the city incurs in preparing mitigation measures.

(3) Environmental Impact Statement.

(a) When the city is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the city, the city may charge and collect a reasonable fee from any applicant to cover costs incurred by the city in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.

(b) The responsible official may determine that the city will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for the activities initiated by some persons or entity other than the city and may bill such costs and expenses directly to the applicant. The city may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the city and applicant.

(c) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under subsection (3)(a) or (b) of this section which remain after incurred costs are paid.

(4) The city may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal.

(5) The city shall not collect a fee for performing its duties as a consulted agency.

(6) The city may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by Chapter 42.17 RCW. [Ord. 98-3 § 1, 1998.]

14.15.260 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other person or circumstances, shall not be affected. WAC 197-11-950 (Severability) is adopted by reference. [Ord. 98-3 § 1, 1998.]

Article XI. Forms

14.15.270 Adoption by reference of certain forms.

The city adopts the following forms and sections by reference:

WAC

197-11-960	Environmental checklist.
197-11-965	Adoption notice.
197-11-970	Determination of nonsignificance (DNS).
197-11-980	Determination of significance and scoping notice (DS).
197-11-985	Notice of assumption of lead agency status.
197-11-990	Notice of action.

[Ord. 98-3 § 1, 1998.]

Article XII. Miscellaneous

14.15.280 Wellhead protection.

The city council includes and adopts, by reference, Clark County Wellhead Protection Ordinance No. 1991-08-45 (Sections 20.70.040 and 20.70.050 from Title 20 of Clark County Code). [Ord. 98-3 § 1, 1998.]

Chapter 14.20
CRITICAL AREAS

Sections:

14.20.005 Authority and title.

This chapter is established pursuant to RCW 36.70A.060 and La Center Ordinance No. 2001-2. This chapter is known as the La Center critical areas ordinance. [Ord. 2001-2 § 3, 2002.]

14.20.010 Purpose.

The purpose of the critical areas overlay district is to implement the open space policies of the La Center comprehensive plan. This chapter creates an overlay district that requires the conservation and/or enhancement of identified critical areas while encouraging urban densities and affordable housing through density transfer to nonsensitive (buildable) lands.

Critical areas are valuable and fragile natural resources with significant development constraints that, in their natural state, provide many valuable social and ecological functions. The attendant buffers of critical areas are essential to the maintenance and protection of the sensitive land, its functions and values. The loss of social and ecological functions provided by critical areas, especially wetlands, riparian zones and fish and wildlife habitat, results in a detriment to public safety and welfare.

Critical areas help to relieve the burdens on the people of La Center which urban development can create including congestion, noise and odors, air pollution, and water quality degradation.

Critical areas serve several important urban design functions. They provide: (1) open space corridors separating and defining developed areas within the city; (2) views which enhance property values and quality of life in developed neighborhoods; (3) educational opportunities for the citizens of La Center; and (4) accessible areas for residents to stroll, hike and enjoy La Center’s valuable natural features. The La Center comprehensive plan proposes a system of connected trails that are closely associated with La Center’s stream corridors, natural drainage ways and the East Fork of the Lewis River.

Conservation of critical areas has associated natural resource benefits, including improved air and water quality, maintenance of fish and wildlife habitat, decreased erosion and sedimentation to streams, absorption of pollutants and preservation of rare plant and animal species.

The intent of this overlay district is that the city of La Center is to achieve no net loss of wetlands, floodplains, fish and wildlife habitat areas, and riparian zones and to avoid the loss of geologically hazardous areas and aquifer recharge/wellhead protection areas. Where avoidance is not practical, the intent is to minimize the environmental impacts of development within and adjacent to critical areas. An overriding objective of this overlay district is to protect stream corridors and associated wetlands and riparian vegetation throughout the urban area. This overlay district is also designed to ensure conservation of wetland areas and their functions, where such areas are associated with steep slopes or stream corridors. The overlay district promotes a balance between recreational and public use of critical areas, consistent with the maintenance of their natural appearance and functional values.

Development limitations on critical areas reduces the need to require additional studies to ensure compliance with the State Environmental Policy Act (SEPA) process and other state or federal environmental regulations. [Ord. 2001-2 § 3, 2002.]

14.20.015 Definitions.

For the purposes of this chapter the definitions set forth in this chapter and Chapter 17.10 LCMC shall apply. Unless specifically defined in this chapter or Chapter 17.10 LCMC, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this title its most reasonable application.

(1) “Altered,” when referring to wetlands, means a wetland of which at least 50 percent has been graded, drained, devegetated, or replanted with nonwetland plants.

(2) “Anadromous” means fish that migrate up rivers and streams from the ocean to breed in fresh water.

(3) “Area of shallow flooding” means areas designated AO or AH Zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

(4) “Best available information” means data, other than official flood insurance rate map data, from federal, state, or other sources, provided this data has either been generated using technically defensible methods or is based on reasonable historical analysis and experience.

(5) “Best available science (BAS)” means a valid scientific process or method of inquiry that is consistent with the criteria for establishing best available science as found in WAC 365-195-900, as amended.

(6) “Buffer” means an area that surrounds and protects critical area functions from adverse impacts.

(7) “City” means a Class 4 municipality governed by the mayor and La Center city council, or the city designee.

(8) “Coastal high hazard area” means the area subject to high velocity waters, including but not limited to storm surge or tsunamis. This area is designated on a flood insurance rate map (FIRM) as Zone V1-30, VE or V.

(9) “Conservation covenant” means a recorded instrument entered into pursuant to LCMC 14.05.130 as a condition of approving a triggering application.

(10) “Council” means the council of the city of La Center.

(11) “Critical facility” means a facility for which even a slight chance of flooding would be too great. Critical facilities include but are not limited to schools, hospitals, police, fire and emergency response installations, nursing homes, and installations which produce, use, or store hazardous materials or hazardous waste.

(12) “Designated floodway” means the regulatory floodway that has been delineated on the FIRM or the flood boundary-floodway map (FBFM) or a community’s flood insurance study and is included in the community’s flood damage prevention ordinance.

(13) “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

(14) “Emergent wetland” means a wetland with at least 30 percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.

(15) “Endangered species” means fish and wildlife species native to Washington that are seriously threatened with extinction throughout all or a significant part of their ranges within the state.

(16) “Enhancement” means actions performed to improve the condition of an existing degraded wetland or buffer so that the functions provided are of a higher quality.

(17) “Exotic” means any species of plants or animals that are not native to the watershed.

(18) “Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; and/or

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

(19) “Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(20) “Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

(21) “Flood protection elevation” means one foot above the base flood elevation.

(22) “Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. For areas of special flood hazard studied in detail, the floodway boundary is delineated upon the flood insurance study maps. In all other areas of special flood hazard, the floodway boundary shall be determined by the use of other base flood data.

(23) “Floodway fringe” shall mean the land between the boundary of the floodway and the limits of the 100-year floodplain. In those special flood hazard areas where the floodway boundary is not delineated upon flood insurance study maps, the floodway fringe area shall be determined by the use of other base flood data, as described in LCMC 14.20.030 (3)(q)(iii).

(24) “Forested wetland” means a wetland with at least 30 percent of the surface area covered by a canopy of woody obligate, facultative wet, or facultative plants greater than 20 feet in height.

(25) “Functions” means the beneficial roles served by wetlands including the control of flood waters, maintenance of summer stream flows, filtration of pollutants, recharge of ground water, and provision of significant habitat areas for fish and wildlife.

(26) “Geologically hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(27) “Headwaters” means springs, lakes, ponds, or wetlands providing significant sources of water to a stream.

(28) “High intensity land use” means roadways, commercial, industrial, and multifamily (more than four units per parcel) land uses.

(29) “Hydric soil” means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the U.S. Army Corps Wetlands Delineation Manual.

(30) “Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the wetlands delineation manual.

(31) “Intermittent stream” means surface streams with no measurable flow during 30 consecutive days in a normal water year.

(32) “Local habitat area” means an area that contains sufficient food, water, or cover for native terrestrial or aquatic species that the city of La Center has identified in this chapter as being of significant local concern.

(33) “Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title.

(34) “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

(35) “Minimizing impacts to wetlands or buffers” means:

(a) Using appropriate and best available technology or best available science;

(b) Taking affirmative steps to avoid or reduce impacts;

(c) Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;

(d) Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities;

(e) Not jeopardizing the continued existence of endangered, threatened, rare, sensitive, or monitor species as listed by the federal government or the state of Washington.

(36) “Mitigation” means actions that the approving agency shall require so as to avoid or compensate for impacts to critical areas resulting from the proposed project activity. The type(s) of mitigation required shall be considered and implemented, where feasible, in the following sequential order of preference:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(e) Compensating for the impact by replacing or providing substitute resources or environments; or

(f) Monitoring the impact and taking appropriate corrective measures to achieve the identified

goal.

(37) “Native,” when referring to plants or plant communities, means those species or communities that are indigenous to the watershed, including extirpated species.

(38) “New construction” means structures for which the “start of construction” commenced on or after the effective date of this title.

(39) “Normal water year” means a 12-month period (October 1st through September 30th) with average precipitation based upon data from the past 50 years.

(40) “Obligate,” “facultative wet,” and “facultative” refer to groupings of plants according to their frequency of occurrence in wetlands. Obligate wetland plants almost always (99 percent probability) occur in wetlands under natural conditions. Facultative wet plants usually (67 to 99 percent probability) occur in wetlands. Facultative plants are equally likely (34 to 66 percent probability) to occur in wetlands or nonwetlands. Such groupings are more fully defined in the wetlands delineation manual.

(41) “Open water,” when not specifically defined by the rating criteria, means a proportion of open water to vegetative cover equal to 25 percent to 75 percent of the total wetland area during a majority of a normal water year.

(42) “Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or any agency of the state or local governmental unit however designated.

(43) “Priority habitat and species areas” are defined as areas requiring protective measures for the perpetuation of fish and wildlife species due to their population status, their sensitivity to habitat alteration and/or their recreational, commercial, or tribal importance.

(44) “Recreational vehicle” means a vehicle that is:

(a) Built on a separate chassis;

(b) Four hundred square feet or less when measured at the largest horizontal projection;

(c) Is designed to be self-propelled or permanently towable by a light duty truck; and

(d) Is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(45) “Riparian habitat area” is defined as areas adjacent to aquatic systems with flowing water (e.g., rivers, perennial or intermittent streams, seeps, springs) that contain elements of both aquatic and terrestrial ecosystems which mutually influence each other.

(46) “Scrub-shrub wetland” means a wetland with at least 30 percent of its surface area covered by woody vegetation less than 20 feet in height as the uppermost strata.

(47) “Sensitive species” are fish and wildlife species native to Washington that are vulnerable or declining, and are likely to become endangered or threatened in a significant portion of their ranges within the state, without cooperative management or the removal of the threats.

(48) “Start of construction” means the date the building permit was issued, provided the actual start of construction, placement of a manufactured home on a foundation, or other permanent construction beyond the stage of excavation, was within 180 days of the permit date.

(a) The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

(b) Permanent construction does not include:

(i) Land preparation, such as clearing, grading and filling;

(ii) Installation of streets and/or walkways;

(iii) Excavation for a basement, footings, piers, or foundation or the erection of temporary forms;

(iv) Construction of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(49) “Storm water management facilities” include biofiltration swales, filter strips, bubbler diffusers, detention ponds, retention ponds, wet ponds, and similar facilities designed and intended to control and treat storm waters, but not including ditches designed and intended primarily for conveyance.

(50) “Streams” means those areas where surface waters produce a defined channel or bed excluding streams and lakes regulated under the State Shorelines Management Act.

(51) “Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

(52) “Triggering application” means an application for one of the permits or approvals listed in this chapter.

(53) “Water-dependent” means a use or a portion of a use that requires direct contact with the water and cannot exist at a nonwater location due to the intrinsic nature of its operations.

(54) “Watershed” means an area draining to the East Fork of the Lewis River.

(55) “Wetland(s)” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

(56) “Wetland classes and subclasses” means descriptive classes of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al. 1978).

(57) “Wetlands delineation manual” means the Corps of Engineers Wetlands Delineation Manual (Technical Report Y-87-1) dated January 1987. [Ord. 2001-2 § 3, 2002.]

14.20.020 Applicability and critical areas map.

(1) Applicability. The provisions of this chapter apply only to lands designated as critical areas and their buffers, as shown on the official critical areas maps, within the La Center corporate limits and urban growth area.

(a) Properties containing critical areas are subject to this title.

(b) When the requirements of this chapter are more stringent than those of other La Center codes and regulations, the requirements of this chapter shall apply.

(c) Where a site contains two or more critical areas, the site shall meet the minimum standards and requirements for each identified critical area as set forth in this title.

(2) Critical Areas. Critical areas include:

(a) Wetlands;

(b) Category I and II aquifer recharge areas;

(c) Wellhead protection areas;

(d) Fish and wildlife habitat conservation areas;

(e) Frequently flooded areas;

(f) Geologically hazardous areas; and

(g) Slopes with a gradient of 25 percent or greater.

(3) Buffers. Critical areas include the attendant buffer areas to lands identified in the tables in LCMC 14.20.035.

(4) Map Location. The general location of critical areas is depicted on the adopted La Center critical areas map. The critical areas map is an indicator of probable regulated areas. The precise limits of critical areas and their attendant buffers on a particular parcel of land shall be determined by the applicant prior to approval of a development action on the subject property. Development shall avoid critical areas, consistent with the provisions of this chapter. The city public works director shall keep on permanent file and maintain the critical areas map.

(5) Use of Existing Procedures and Laws. The following laws and procedures shall be used to implement this chapter:

(a) La Center Municipal Code (LCMC). Development activity regulated by LCMC Title 17, Zoning, that will occur within a protected critical area or critical area buffer shall comply with the provisions of this chapter.

(b) The State Environmental Policy Act (SEPA), Chapter 43.21C RCW. Development activity that is likely to have a significant adverse impact upon identified critical areas regulated by this chapter shall not be categorically exempt from SEPA review and shall demonstrate compliance with this chapter. (See LCMC 14.15.235.)

(c) The Shorelines Management Act (SMA), Chapter 90.58 RCW.

(6) State and Federal Agency Review. Regulated activities subject to this chapter shall be routed to appropriate state and federal agencies for review and comment as required through the SEPA and/or JARPA review process. [Ord. 2001-2 § 3, 2002.]

14.20.025 Variances.

(1) An applicant who seeks to vary from the requirements of this chapter may seek a variance pursuant to this section. The city shall review a request to vary from the requirements of this chapter through a Type III review process.

(2) An application to vary from the requirements of this chapter shall demonstrate compliance with all of the following criteria:

(a) There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location, or surroundings that do not apply generally to other properties;

(b) The variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property, but which because of special circumstances is denied to the property in question;

(c) Granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvement;

(d) Granting the variance will not violate, abrogate, or ignore the goals, objectives, or policies of the La Center comprehensive plan;

(e) In addition to the approval criteria above, an application to vary from the buffer requirements of a fish habitat conservation area or riparian area shall demonstrate that the requested buffer width modification preserves adequate vegetation to:

(i) Maintain proper water temperature;

(ii) Minimize sedimentation; and

(iii) Provide food and cover for critical fish and wildlife species;

(f) When granting a variance, the city may attach specific conditions to the variance that will serve to meet the goals, objectives, and policies of this chapter, including the preparation and implementation of a mitigation and monitoring plan consistent with LCMC 14.20.060. [Ord. 2001-2 § 3, 2002.]

14.20.027 Reasonable use exception.

(1) General Requirements.

(a) If the application of this chapter would deny all reasonable use of a lawful lot created and recorded prior to December 31, 1994, development may be allowed that is consistent with the general purposes of this chapter and the public interest. Nothing in this chapter is intended to preclude all reasonable use of property.

(b) Except when application of this chapter would deny all reasonable use of a lot, an applicant who seeks a modification from the regulations of this chapter may pursue a variance as provided in LCMC 14.20.025, Variances, and consistent with the requirements of this subsection.

(c) The mayor or his or her designee shall prepare and maintain application forms necessary to implement this subsection.

(2) Application Requirements.

(a) Preliminary Review. The provisions for conducting a preliminary review of a proposed reasonable use exception are set forth in LCMC 17.80.030.

(b) Regulations – General Provisions – Application Filing.

(i) Reasonable use exception applications shall be reviewed for completeness in accordance with city submittal standards checklists and pursuant to LCMC 17.80.020.

(ii) An applicant for a development proposal may file a request for a reasonable use exception which shall include the following information:

(A) A description of the areas of the site which are critical areas or within setbacks required under this title;

(B) A description of the amount of the site which is within setbacks required by other standards of LCMC Title 17, Zoning;

(C) A description of the proposed development, including a site plan;

(D) An analysis of the impact that the amount of development described in subsection (2)(b)(ii)(C) of this section would have on the critical area(s);

(E) An analysis of whether any other reasonable use with less impact on the critical area(s) and associated buffer(s) is possible;

(F) A design of the proposal so that the amount of development proposed as reasonable use will have the least impact practicable on the critical area(s);

(G) An analysis of the modifications needed to the standards of this chapter to accommodate the proposed development;

(H) A description of any modifications needed to the required front, side, and rear setbacks; building height; and buffer widths to provide for a reasonable use of the site while providing greater protection to the critical area(s); and

(I) Such other information as the city determines is reasonably necessary to evaluate the issue of reasonable use as it relates to the proposed development.

(3) Public Review.

(a) The city shall process a request for a reasonable use exception as a Type III procedure pursuant to LCMC 17.200.060.

(b) The city shall forward a copy of a request for reasonable use exception to the state and federal agencies with jurisdiction over the resource at issue and to all property owners within 300 feet of the subject property.

(c) The city shall provide public notice of the request for reasonable use exception pursuant to LCMC 17.200.090.

(d) A party shall appeal a final decision of a request for reasonable use exception pursuant to LCMC 17.200.100.

(4) Reasonable Use Approval Criteria. The hearing examiner shall approve a reasonable use exception if the examiner determines the following criteria are met:

(a) There is no other reasonable use or feasible alternative to the proposed development with less impact on the critical area(s);

(b) The proposed development does not pose a threat to the public health, safety, or welfare on or off the site;

(c) Any alteration of the critical area(s) shall be the minimum necessary to allow for reasonable use of the property;

(d) The proposed development will not result in a "take" of a threatened or endangered species;

(e) The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line thereby creating the undevelopable condition after the effective date of this chapter; and

(f) The proposal mitigates the impacts on the critical area(s) to the maximum extent possible, while still allowing reasonable use of the site. The applicant shall prepare and implement a mitigation and monitoring plan consistent with LCMC 14.20.060. [Ord. 2001-2 § 3, 2002.]

14.20.030 Critical lands.

(1) Critical Aquifer Recharge Areas. Due to the exceptional susceptibility and/or vulnerability of ground waters underlying aquifer recharge areas to contamination and the importance of such ground waters as sources of public water supply, it is the intent of this chapter to safeguard ground water resources by mitigating or precluding future discharges of contaminants from new land use activities. The provisions of this chapter shall apply to regulated activities specified herein within those portions of the La Center UGA classified as aquifer recharge areas.

(a) Category I Aquifer Recharge Areas (CARA I).

(i) Areas with a critical recharging effect on aquifers used for potable water are areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.

(ii) La Center wellheads are owned and operated by Clark Public Utilities.

(iii) Development, other than the maintenance of vegetation, shall be prohibited within 50 feet of any wellhead within the UGA.

(iv) For purposes of this chapter, critical aquifer recharge areas include lands within the 10-year zone of contribution, as shown on the La Center critical areas map.

(v) Development within a Category I critical aquifer recharge area shall be limited to those uses identified in LCMC 14.20.045(1). The following uses are prohibited in Category I aquifer recharge areas:

(A) Landfills;

(B) Class V injection wells: (I) agricultural drainage wells; (II) untreated sewage waste disposal wells; (III) cesspools; (IV) industrial process water and disposal wells; and (V) radioactive waste disposal;

(C) Radioactive disposal sites; and

(D) Surface mining operations.

(b) Storage Tank Permits. The Clark County fire marshall regulates and authorizes permits for underground storage tanks, pursuant to the Uniform Fire Code (Article 79) and this chapter. The Washington Department of Ecology also regulates and authorizes permits for underground storage tanks (Chapter 173-360 WAC).

(i) Facilities with Underground Tanks – New Underground Tanks.

(A) All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

(I) Prevent releases due to corrosion or structural failure for the operational life of the tank;

(II) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substance; and

(III) Use material in the construction or lining of the tank that is compatible with the substance to be stored.

(ii) Aboveground Tanks.

(A) No new aboveground storage facility or part thereof shall be fabricated, constructed, installed, used, or maintained in any manner which may allow the release of a hazardous substance to the ground, ground waters, or surface waters of La Center within a CARA I.

(B) For a tank that will contain a hazardous substance, no new aboveground tank or part thereof shall be fabricated, constructed, installed, used, or maintained without having constructed around and under it an impervious containment area enclosing or underlying the tank or part thereof.

(C) A new aboveground tank that will contain a hazardous substance will require a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks located within an aquifer recharge area. The secondary containment system or dike system must be designed and constructed to contain the material stored in the tank(s).

(c) The applicant shall demonstrate, through the land use approval process, that the proposed activity will not have any adverse impacts on ground water in critical aquifer recharge areas, based on the Safe Drinking Water Act and the Wellhead Protection Area Program, pursuant to Public Water Supplies, Chapter 246-290 WAC; Water Quality Standards for Ground Waters of the State of Washington, Chapter 173-200 WAC; and Dangerous Waste Regulations, Chapter 173-303 WAC. By this reference, Chapters 173-200, 173-303 and 246-290 WAC, as written and hereafter updated, will be part of this chapter.

(2) Fish and Wildlife Habitat Conservation Areas. Identified sensitive fish and wildlife habitat areas shall be preserved or adverse impacts mitigated. Fish and wildlife areas are divided into four basic categories:

(a) Riparian.

(i) Overwhelming evidence exists to support the use of riparian buffers of adequate size to maintain healthy, productive fish and wildlife habitat. Although riparian areas comprise only a small portion of the surface landscape, approximately 90 percent of Washington’s land-based vertebrate species prefer, or are dependent upon, riparian habitat for essential life.

(ii) Riparian habitat areas may include frequently flooded areas, critical recharge areas and wetlands. Riparian habitat areas are those areas immediately adjacent to waterways that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. WAC 222-16-020, relating to stream classification, shall be the city's classification system for streams.

(b) Endangered or Threatened.

(i) Areas that have a primary association with federal listed endangered or threatened species of fish or wildlife and which if altered may reduce the likelihood that the species will maintain and reproduce over the long term. Endangered or threatened species found in the La Center corporate limits and urban growth area as of June 1, 2001, are listed in Appendix A.

(ii) Point locations are the specific sites (nests, dens, etc.) where critical wildlife species are found. Many of these sites have been identified and mapped by the Washington Department of Fish and Wildlife (WDFW). Point locations are lands where species designated as endangered or threatened have a primary association with that land. Development of such lands shall be controlled in accordance with a site specific fish and wildlife management plan consistent with the WDFW's priority habitats and species management recommendations and prepared by a qualified consultant. The Washington Department of Fish and Wildlife should be consulted to provide a technical review and an advisory role in the decision making process.

(c) Local Habitat Areas.

(i) Species of local importance are those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species.

(ii) Habitats of local importance include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus, and wetlands.

(iii) Local habitat areas include those areas specifically identified as local habitat areas on the city's adopted critical areas map and background maps used to prepare the critical areas map.

(A) The city or private citizens may nominate areas for consideration as local habitat areas and for inclusion on the critical areas map.

(B) The applicant shall be responsible for preparing the nomination using city prescribed forms. The applicant shall pay a processing fee of one percent of the assessed value of the proposed area as zoned at the time of application.

(C) The hearing examiner, through a Type III process, and in reliance upon all best available science in the hearing record, shall make a determination of whether the nominated area qualifies as a local habitat area.

(d) Priority Habitat Species (PHS) Areas. Areas with which state-listed monitor or candidate species or federally listed candidate species have a primary association, as specified in Washington Department of Wildlife Policies 4802 and 4803, and which if altered may reduce the likelihood that the species will maintain and reproduce over the long term. Candidate and monitored species found in are listed in Appendix A;

(3) Frequently Flooded Areas.

(a) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for La Center, Washington" dated March 28, 1986, with accompanying FIRM,

and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the office of the city clerk/treasurer. The best available science shall be the basis for regulation until a new FIRM is issued which incorporates the data used to inform this chapter.

(b) Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.

(c) Abrogation and Greater Restrictions. Where this chapter and another code, ordinance, easement, covenant or deed restriction conflict or overlap, that which imposes the more stringent restriction shall prevail.

(d) Interpretation. In the interpretation and application of this section, all provisions shall be:

(i) Considered as minimum requirements;

(ii) Liberally construed in favor of the governing body; and

(iii) Deemed neither to limit nor repeal any other powers granted under state statutes.

(e) Interpretation of FIRM Boundaries. The local administrator, the governing body or its agent or employee may interpret and apply when necessary the exact location of the boundaries of the areas of special flood hazards where there appears to be a conflict between a mapped boundary and actual field conditions. Any aggrieved person may contest the location of the boundary and shall be given a reasonable opportunity to appeal the interpretation to the local administrator and then the governing body. Such appeal shall be granted consistent with the standards of Section 1910.6 of the Rules and Regulations of the National Flood Insurance Program located at 24 CFR 1909 et seq.

(f) Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes, and is based upon scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of La Center, any officer or employee thereof, or the Federal Emergency Management Agency or Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(g) Floodplain (FP) Combining District. A floodplain (FP) combining district is established and shall be applied to all 100-year floodplains identified on the flood insurance study maps, which have been adopted by reference. The land use and siting provisions of these areas shall be in addition to other zoning provisions applied. Two distinct areas are recognized within the FP district: the “floodway” area and the “floodway fringe” area.

(h) State Assumption of Regulatory Authority. The Department of Ecology shall determine whether the city is in compliance with the requirements of Chapter 86.16 RCW and this title. If the Department determines that the city has failed to comply with these requirements, the Department shall then assume regulatory authority for floodplain management activities within the city. Assumption of regulatory authority shall be based on the following process:

(i) Verbal notification of lack of compliance;

(ii) Written notification of lack of compliance;

(iii) Offer of assistance to meet with the city to regain compliance;

(iv) Issuance of orders in accordance with WAC 173-158-080;

(v) Issuance of penalties in accordance with WAC 173-158-090.

(i) Regulatory Area. The areas for state and local floodplain management regulations shall be those areas subject to a base (100-year) flood (except as noted for siting of critical facilities). Base

floodplains are designated as special flood hazard areas on the most recent maps provided by the Federal Emergency Management Agency for the National Flood Insurance Program. Best available information shall be used if these maps are not available or sufficient.

(j) Relationship to Other Requirements. Land uses in the floodplain combining district shall be subject to all relevant local, state, or federal regulations including those of the underlying zoning district. Where applicable, permit requirements under the Shoreline Management Act (Chapter 90.58 RCW), or the State Flood Control Zone Act (Chapter 86.16 RCW) may be substituted for permits required under this chapter; provided, that the standards of this chapter are applied.

(k) Criteria for Land Management and Use. The standards and definitions contained in 44 CFR Parts 59 and 60 for the National Flood Insurance Program are adopted by reference as the minimum state standards.

(l) Uses Permitted in the Floodplain (FP) Combining District. Park, recreational, agricultural, and other similar open space uses allowed in the underlying zoning district, and not involving structures, fill, or storage of equipment, are permitted outright in the FP district.

(m) Uses Prohibited in the Floodway. Structures for human habitation and other structures or works posing a high flood damage potential are prohibited in the floodway, except for the replacement of structures or works, single-family residences in accordance with WAC 508-60-040, and travel trailers subject to the provisions set forth in this chapter. Any use other than those permitted outright in a floodway shall be subject to the terms of a floodplain.

(n) Uses Allowed Under a Floodplain Permit. All other uses permitted in the zoning district with which the FP district has been combined are allowed in the floodway and floodway fringe areas subject to the terms of a floodplain permit.

(o) A floodplain permit shall be obtained before construction or development begins within any area of special flood hazard. The permit shall be required for all structures, including manufactured homes, and other development. Permit application forms shall be furnished by the mayor or his or her designee. The application shall include, but is not limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question, and existing or proposed structures, fill, storage of materials, and drainage facilities. Specifically, the following information is required:

(i) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

(ii) Elevation in relation to mean sea level to which any structure has been floodproofed;

(iii) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing requirements; and

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(p) Designation of the Local Administrator. The mayor or his or her designee is authorized to administer and implement this title by granting or denying floodplain permit applications in accordance with its provisions.

(q) Duties and Responsibilities of the Local Administrator. Duties of the local administrator, if applicable, shall include, but not be limited to:

(i) Development Review.

(A) Review all proposed developments to determine whether or not a floodplain permit is required.

(B) Review all proposed developments with respect to the flood insurance study maps

and zoning district boundaries. Make interpretations where needed as to the exact location of special flood hazard area boundaries.

(ii) Permit Review.

(A) Review all proposed development permits to determine that the permit requirements of this title have been satisfied.

(B) Review all proposed development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(C) Review all proposed development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions are met.

(iii) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with subsection (3)(a) of this section (Basis for Establishing the Areas of Special Flood Hazard), the mayor or his or her designee shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from an agency of federal or state government, or other sources, in order to administer this section, including specific standards for residential construction, nonresidential construction and floodways and floodway requirements.

(iv) Information to be Obtained and Maintained.

(A) Where base flood elevation data is provided through the flood insurance study or required as in subsection (3)(a) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(B) For all new or substantially improved floodproofed structures, the local administrator shall:

(I) Verify and record the actual elevation (in relation to mean sea level) to which any structure has been floodproofed;

(II) Maintain the floodproofing certifications;

(III) Maintain for public inspection all records pertaining to the provisions of this chapter;

(IV) Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration and the Federal Emergency Management Agency;

(V) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and

(VI) Interpretation of FIRM Boundaries. Make interpretation, where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation.

(r) Variance Procedure – Additional State Requirements. The variance procedure contained in 44 CFR Part 60.6 and this title shall apply to the additional state requirements contained in WAC 173-158-060 and 173-158-070, unless an activity or use is expressly prohibited therein.

(s) Appeal and Review of City Action.

(i) A person with standing may appeal the approval or denial of a floodplain permit as provided in LCMC 17.200.100.

(A) In acting on appeals or permit approval requests, the city shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this chapter, and:

(I) The danger that materials may be swept onto other lands to the injury of others;

(II) The danger of life and property due to flooding or erosion damage;

(III) The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;

(IV) The importance of the services provided by the proposed facility to the community;

(V) The necessity to the facility of a waterfront location where applicable;

(VI) The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;

(VII) The compatibility of the proposed use with existing and anticipated development;

(VIII) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(IX) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(X) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site; and

(XI) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets and bridges.

(B) Upon consideration of the above factors, and the purposes of this chapter, the appeal hearing body may attach such conditions to actions on appeals and approvals as it deems necessary to further the purpose of this chapter.

(C) The mayor or his or her designee shall maintain the records of all appeal and approval actions of the city of La Center.

(t) Conditions for Variances.

(i) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases, the technical justification required for issuing the variance increases.

(ii) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places.

(iii) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(iv) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(v) Variances shall only be issued upon:

(A) Showing a good and sufficient cause;

(B) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(C) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(vi) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the

flood elevations shall be quite rare.

(vii) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (3)(t)(i) of this section, and otherwise complies with anchoring and construction materials and methods general standards below.

(viii) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(u) Penalties and Enforcement.

(i) The attorney general or the attorney for the local government shall bring such injunctive, declaratory, or other actions as are necessary to ensure compliance with this chapter.

(ii) Any person who fails to comply with this chapter shall also be subject to a civil penalty not to exceed $1,000 for each violation. Each violation or each day of noncompliance shall constitute a separate violation.

(iii) The penalty provided for in this section shall be imposed by a notice in writing either by certified mail with return receipt requested or by personal service to the person incurring the same from the department or local government, describing the violation with reasonable particularity and ordering the act or acts constituting the violation or violations to cease and desist or, in appropriate cases, requiring necessary corrective action to be taken within a specific and reasonable time.

(iv) Any penalty imposed pursuant to this section by the department shall be subject to review by the pollution control hearings board. Any penalty imposed pursuant to this section by the city shall be subject to review by the city council. Any penalty jointly imposed by the department and city shall be appealed to the pollution control hearings board.

(v) General Standards. In all areas of special flood hazards the following standards set forth in this article are required.

(i) Anchoring.

(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(B) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for additional techniques).

(ii) Construction Materials and Methods.

(A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(C) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(iii) Utilities.

(A) All new and replacement water supply systems shall be designed to minimize or

eliminate infiltration of flood waters into the system;

(B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

(C) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(iv) Subdivision Proposals.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(D) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(v) Review of Building Permits. Where elevation data is not available either through the flood insurance study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

(w) Additional Standards.

(i) Critical Facilities.

(A) Critical facilities should be afforded additional flood protection due to their nature. The city shall use the 500-year frequency flood as a minimum standard instead of the 100-year frequency flood as used for other types of development.

(B) Construction of new critical facilities shall be, to the extent possible, located outside the limits of the 500-year floodplain as identified on the city's FIRM. Construction of new critical facilities shall be permissible within the 500-year frequency floodplain if no feasible alternative site is available. Critical facilities constructed within the 500-year frequency floodplain shall have the lowest floor elevated to or above the level of the 500-year frequency flood or the flood protection elevation, whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters.

(C) Access routes elevated to or above the level of the 500-year frequency flood shall be provided to all critical facilities to the extent possible.

(ii) Flood Protection Elevation. In order to account for the impacts of future development on flood depths, and in order to ensure the least expensive insurance rates for floodplain occupants, all development within special flood hazard areas which requires elevation or floodproofing shall be elevated or floodproofed to the flood protection elevation (base flood elevation plus one foot).

(x) Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in subsection (3)(a) of this section, Basis for Establishing the Areas of Special Flood Hazard, or (3)(q)(iii) of this section, Use of Other Base Flood Data, the following provisions are required:

(i) Residential Construction.

(A) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above one foot above the base flood elevation.

(B) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(I) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(II) The bottom of all openings shall be no higher than one foot above grade.

(III) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of flood waters.

(ii) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

(A) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(C) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official;

(D) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in this subsection (3)(x)(ii);

(E) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).

(y) Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(z) Recreational Vehicles. Recreational vehicles placed on sites are required to either:

(i) Be on site for fewer than 180 consecutive days;

(ii) Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(iii) Meet the requirements for a manufactured home and the elevation and anchoring requirements for manufactured homes; may be allowed in the floodway and floodway fringe areas on a temporary basis.

(aa) Floodways and Floodway Requirements.

(i) Special Flood Hazard Areas with Designated Floodways. In addition to those NFIP requirements for designated floodways, the city shall restrict land uses within such areas to include the prohibition of construction or reconstruction of residential structures except for:

(A) Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and

(B) Repairs, reconstruction, or improvements to a structure the cost of which does not exceed 50 percent of the market value of the structure either:

(I) Before the repair, reconstruction, or improvement is started, or

(II) If the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the 50 percent determination.

(ii) Special Flood Hazard Areas Without Designated Floodways. When a regulatory floodway for a stream has not been designated, the city may require that applicants for new construction and substantial improvements reasonably utilize the best available information from federal, state, or other sources to consider the cumulative effect of existing, proposed, and anticipated future development and determine that the increase in the water surface elevations of the base flood will not be more than one foot at any point in the community. Building and development near streams without a designated floodway shall comply with the requirement of 44 CFR 60.3(b)(3) and (4) and (C)(10) of the NFIP regulations, adopted by reference.

(iii) Located within areas of special flood hazard established in section (3)(a) of this section are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(A) Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If subsection (3)(aa)(iii)(A) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

(C) Prohibit the placement of any manufactured homes.

(bb) Encroachments. The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

(4) Geologically Hazardous Areas.

(a) Erosion hazard areas are those areas containing soils that, according to the United States Department of Agriculture Soil Conservation Service Soil Classification System, may experience severe to very severe erosion.

(b) Landslide hazard areas are areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

(c) Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.

(d) Development on lands classified as “erosion hazards,” “landslide hazards” or “seismic hazards” shall be prohibited unless the applicant provides a report, prepared and signed by a licensed engineer, specializing in geotechnical engineering, that provides construction methodologies, based upon best available science, and quality assurances that the site can be developed without significant risk to

public safety.

(5) Slopes with a Gradient of 25 Percent or Greater.

(a) Slope gradient shall be measured in two-foot contours over 10-foot intervals.

(b) Lands with slopes of 25 percent or greater are considered unbuildable and development is not allowed.

(c) Slopes between 15 percent and 25 percent are generally considered buildable, however, the mayor or his or her designee may require an applicant to provide substantial evidence that a slope between 15 percent and 25 percent is geologically stable if there is evidence that similarly situated slopes have demonstrated substantial instability in the past.

(6) Wetlands.

(a) Purpose. Wetlands constitute important natural resources which provide significant environmental functions including: the control of flood waters, maintenance of summer stream flows, filtration of pollutants, recharge of ground water, and provisions of significant habitat areas for fish and wildlife. Uncontrolled urban-density development in and adjacent to wetlands can eliminate or significantly reduce the ability of wetlands to provide these important functions, thereby detrimentally affecting public health, safety, and general welfare.

(b) Applicability. The provisions of this chapter apply to any soil disturbance occurring or land use proposal affecting a wetland or its buffer unless otherwise expressly exempted by this chapter.

(c) Exempted Wetlands. This chapter shall not apply to the following wetlands:

(i) Small. Category 2 and 3 wetlands less than 2,500 square feet in area and Category 4 wetlands less than 10,000 square feet in area.

(ii) Artificial. Wetlands created from nonwetland upland sites including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, storm water management facilities, farm ponds, and landscape amenities; provided, that wetlands created as mitigation shall not be exempted.

(iii) Prior Converted Cropland. Wetlands recognized by the United States Army Corps of Engineers as prior converted cropland under its Regulatory Guidance Letter 90-7 to the extent consistent with such Corps recognition. Wetlands meetings the Corps' definition of prior converted cropland, but exempt from federal regulation due to their small size (less than one acre), shall be recognized by the city as prior converted croplands utilizing the definitions, standards and limitations of Guidance Letter 90-7.

(iv) Riparian. Wetlands less than five feet wide above the ordinary high water mark along streams and lakes which are regulated under the State Shorelines Management Act.

(d) Interpretation. Except where a contrary intent clearly appears, the provisions of this chapter shall be construed to the maximum feasible extent consistent with the Federal Clean Water Act, 33 USC Section 1251 et seq., and the rules and guidelines promulgated pursuant thereto. Nothing in this chapter shall be construed to preclude application of the State Environmental Policy Act in approving applications not listed in LCMC 14.05.020.

(e) Wetland Delineation and Marking.

(i) An application for wetland impacts shall not be deemed technically complete until completion (if required) of a wetland delineation.

(ii) The mayor or his or her designee shall determine whether a wetland delineation is required based upon several factors including but not limited to a site visit, review of existing critical areas maps, review of National Wetland Inventory maps, the presence of hydric soils, historical evidence, or consultation with a qualified experts.

(iii) Wetland Delineation.

(A) Methodology. The location of a wetland and its boundary shall be determined through the performance of a field investigation, to be performed by a qualified scientific expert (see WAC 395-195-905) using the methodology contained in the 1987 U.S. Corps of Engineers wetlands delineation manual. The applicant shall be responsible for the cost of the professional services. If a wetland is located off-site and is inaccessible, the best available science shall be used to determine the wetland boundary and category.

(B) Information Requirements. Wetland boundaries shall be staked and flagged in the field and a delineation report shall be submitted to the city. The report shall include the following information:

(I) U.S.G.S. Quadrangle map with site clearly defined;

(II) Topographic map of area;

(III) National wetland inventory map showing site;

(IV) Soil Conservation Service soils map of the site;

(V) Site map, at a scale no smaller than one inch equals 400 feet, if practical, showing the following information: (a) wetland boundaries; (b) sample sites and sample transects; (c) boundaries of forested areas; and (d) boundaries of wetland classes if multiple classes exist;

(VI) Discussion of methods and results with special emphasis on technique used from the wetlands delineation manual;

(VII) Acreage of each wetland on the site based on the survey if the acreage will impact the buffer size determination or the project design;

(VIII) All completed field data sheets (U.S. Army Corps of Engineers' format for three parameter application) numbered to correspond to each sample site.

(C) Responsibility. The wetland delineation is the responsibility of the applicant. The city shall verify the accuracy of the boundary delineation within 20 working days of receiving the delineation report. This review period may be extended when excessively dry conditions prohibit the confirmation of the wetland delineation. If the delineation is found to not accurately reflect the boundary of the wetland, the city will issue a report, within 30 working days of receiving the applicant's delineation report, citing evidence (for example, soil samples) that demonstrates where the delineation is in error. The applicant may then either revise the delineation and submit another report or administratively appeal.

(iv) Buffers. All buffers shall be measured perpendicularly outward from the delineated wetland boundary or, in the case of a stream with no adjacent wetlands, the ordinary high water mark as surveyed in the field.

(v) Marking Buffer During Construction. The location of the outer extent of the wetland buffer shall be marked in the field and such markings shall be maintained throughout the duration of the permit.

(vi) Permanent Marking of Buffer Area. A permanent physical demarcation along the upland boundary of the wetland buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedge row, fencing, or other prominent physical marking approved by the hearing examiner. In addition, small signs shall be posted at an interval of one per lot or every 100 feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the wetland buffer worded substantially as follows: "Wetland and Buffer – Please Retain in a Natural State."

(vii) A conservation covenant shall be recorded in a form approved by the city attorney as adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a wetland permit prior to engaging in regulated activities within a wetland or its buffer.

(viii) In the cases of plats, short plats, and recorded site plans, include on the face of such instrument the boundary of the wetland and its buffer and a reference to the separately recorded conservation covenant provided for in subsection (6)(e)(vii) of this section.

(f) Wetland Rating. The Washington State Department of Ecology wetland rating system is used in part to determine base buffer widths and to determine mitigation and enhancement requirements.

(i) The determination of the specific category of wetland and buffer type for each wetland shall be the responsibility of the city.

(ii) A single wetland shall be classified into more than one category if distinct areas exist in the wetland that clearly meet the description of separate categories. Buffers shall also be classified into more than one type when distinct areas exist in the buffer that clearly meet the description for separate types.

(iii) Wetlands that are enhanced thereafter meet the criteria for a higher category are classified according to the characteristics of the original wetland.

(iv) Wetland Rating System. The rating system contains a general description of each wetland category followed by specific criteria. If the specific criteria conflicts with the general description, the city shall determine the most appropriate classification as applied to a particular site.

(A) Category I Wetlands. A wetland is considered Category I if it meets any one of the following four criteria:

Criterion 1. Wetlands that have documented occurrences recognized by federal or state agencies of threatened or endangered species of plant, wildlife, or fish species.

Criterion 1a: Plant Species. The wetland contains individuals of federal or state-listed threatened or endangered plant species.

Justification. Some species of threatened or endangered plants are found in wetland habitats and need to be protected. An example is Howellia aquatilis in Clark and Spokane Counties. The Washington Natural Heritage Program provides current listings of state-listed threatened and endangered species that may be found in wetlands.

Criterion 1b: Animal Species. The wetland contains documented occurrences of federal and state-listed threatened or endangered wildlife species managed by the Washington Department of Fish and Wildlife.

Justification. There are few listed state endangered or threatened species that are confined to wetland habitats. One of the few examples is the Western Pond Turtle Clemmys marmorata, a state-listed threatened species. However, the peregrine falcon Falco peregrinus and Columbian white-tailed deer Odocoileus virginianus leucurus, both state endangered species, use wetlands as well as other habitats.

Criteria 1c: Fish Species. The wetland contains documented occurrences of state or federally listed threatened or endangered fish species, or races of fish, managed by the Washington Department of Fish and Wildlife.

Justification. These are wetlands that contain individuals, populations, or priority habitat of state or federally listed threatened or endangered fish species, or races of fish, managed by the Washington Department of Fish and Wildlife.

Criterion 2: Examples of High Quality Native Wetland Communities.

1.) The wetland is already on record with the Washington Natural Heritage Program as a high quality native wetland; or

2.) There is no significant evidence of human-caused changes to topography or hydrology of the wetland (significant changes include clearing, grading, filling, logging of the wetland or its immediate buffer, or culverts, ditches, dredging, diking or drainage of the wetland); and there are no populations of

nonnative plants which are currently present and appear to be invading; and there is no significant evidence of human-caused degradation of the water quality of the system.

Justification. Despite the relative abundance of certain types of wetlands, extremely high quality, undisturbed examples of those wetlands are rare. This subcriteria attempts to identify and to afford a high level of protection to the undisturbed character of remaining extremely high quality wetlands in the state.

Criterion 3. Wetlands that are documented as regionally significant waterfowl or shorebird concentration areas.

Justification. Some wetland areas are of particular importance in the life cycles of migratory birds. The birds use them as breeding sites, as resting or feeding sites along migratory routes or as sites for shelter during storms. Because of the recognized national importance of migratory birds and international obligations it is important to afford these areas high levels of protection.

Criterion 4. Wetlands with irreplaceable ecological functions.

Criterion 4a: Bogs and Fens. The wetland has at least 0.5 acres of contiguous relatively undisturbed bog or fen with a cover of invasive species (Table 3) that is less than 10 percent.

Table 3 – List of invasive/exotic plant species for question 2a.1 (peat wetlands), Question 2b.3, (mature forested wetlands), and Question 3.2 (Category IV wetlands)

Scientific Name	**Common Name**
Agropyron repens	Quackgrass
Alopecuruspratensis, A. aequalis	Meadow Foxtail
Arcticum minus	Burdock
Brumus tectorum, B. rigidus, B. brizaeformis, B. secalinus, B. japonicus, B. mollis, B. commutatus, B. inermis, B. erectus	Bromes
Cenchrus longispinus	Sandbur
Centaurea solstitialis, C. repens, C. cyanus, C. maculosa, C. diffusa	Knapweeds
Cirsium vulgare, C. arvense	Thistles
Cynosursus cristasus, C. echinatus	Dogtail
Cytisus scoparius	Scot’s Broom
Dactylis glomerata	Orchardgrass
Dipsacus sylvestris	Teasel
Digitaria sanguinalis	Crabgrass
Echinochloa crusgalli	Barnyard Grass
Elaeagnus augustifolia	Russian Olive
Euphorbiapeplus, E. esula	Spurge
Festuca arundinacea, F. pratensis	Fescue
Holcus lanatus, H. mollis	Velvet Grass
Hordeumjubatum	Foxtail Barley
Hypericumperforatum	St. John’s Wort
Iris pseudacorus	Yellow Iris
Loliumperenne, L. multiflorum, L. temulentum	Ryegrass
Lotus corniculatus	Birdsfoot Trefoil

Lythrum salicaria	Purple Loosestrife
Matricaria matricarioides	Pineapple Weed
Medicago sativa	Alfalfa
Melilotus alba, M. officinalis	Sweet Clover
Phalris arundinacae	Reed Canarygrass
Phleum pratense	Timothy
Phragmites australis	Reed
Poa compressa, P. palustris, P. pratensis	Bluegrass
Polygonium aviculare, P. convolutus, P. cuspidatum, P. lapathifolium, P. persicaria	Knotweeds
Ranunculus repens	Creeping Buttercup
Rubus discolor, R. laciniatus, R. vestitus, R. macrophyllus	Nonnative Blackberries
Salsola kali	Russian Thistle
Setaria viridis	Green Bristlegrass
Sisymbrium altissimum, S. loeselii, S. officinale	Tumblemustards
Tanacetum vulgare	Tansy
Trifolium dubium, T. pratense, T. repens, T. Arvense, T. subterraneum, T. hybridium	Clovers
Cultivated Species:	Wheat, Corn, Barley, Rye, etc.

Justification. Bogs and fens are distinct wetland types, which are very sensitive to disturbance. Bogs and fens form when organic material accumulates faster than it decomposes. Bog/fen systems, however, form extremely slowly, with organic soils forming at rates approximating one inch per 40 years in western Washington. Bogs are hydrologically closed systems without flowing water. They are extremely acidic and low in nutrients and the plants which grow in them are specifically adapted to such conditions. Fens normally support a greater diversity of plant species and have greater amounts of available nutrients and a higher pH than bogs. A variety of specialized plants live in bogs and fens. Thus, minor changes in the hydrology or nutrient levels in these systems can have major adverse impacts on the plant communities. Peat systems also provide significant habitat for a variety of wildlife species and perform important hydrologic functions including ground water and stream recharge. The majority of the bogs/fens observed in western Washington have been degraded through hydrologic modification and reduction in species diversity and integrity. All remaining relatively undisturbed bogs and fens need a high level of protection. In addition, there is no known technology for replicating or creating a bog/fen.

Criterion 4b: Mature Forested Wetlands. Forested wetlands qualify as mature forested wetlands when at least 50 percent of the forest canopy contains evergreen trees that are 80 years old, or deciduous trees that are more than 50 years old; or 50 percent of the forest canopy consist of trees taller than 50 feet, and the structural diversity is high as characterized by a multilayer community of trees greater than 50 feet tall and trees 20 feet to 49 feet tall and shrubs and herbaceous groundcover; and less than 25 percent of the cover in the herbaceous/ground cover or shrub class are invasive exotic plant species.

Justification. Forested wetlands are important because of the variety of functions that these wetlands provide and the very long time that they take to develop. Mature forested wetlands require at least 50 years to develop and are very valuable for wildlife habitat when left undisturbed. Forested wetlands have

exceptionally high functional values for wildlife habitat due to the multiple layers of vegetation which provide a variety of food, breeding and nesting sites, and thermal and hiding cover. Some forested wetlands are associated with standing water during all or part of the year, which makes them extremely valuable, especially when the surrounding area is arid or semi-arid. Birds, mammals, and amphibians often reach their greatest densities and diversity within forested wetlands. The tree canopy moderates the temperature within the wetland so that it is cooler in summer and warmer in winter than surrounding open areas and this reduces energy needs for wildlife. Trees may shade open water providing cover for fish, and downed trees provide large organic debris essential for fish habitat structure in streams. Leaves and insects which are important in the aquatic food chain drop into the water from overhanging trees. Riparian forested wetlands are those forested wetlands along streams and rivers. Riparian forests may contain both wetland and nonwetland forest components. Nonwetland riparian forests are extremely important as a transition between wetland and upland. Floodwaters are slowed and diminished as they spread out in riparian-forested wetlands and the trees and other vegetation trap sediments from the floodwaters. Sediments, shorelines and streamsides are stabilized by the extensive root systems and protected from erosion by vegetative cover.

(B) Category 2 Wetlands. A wetlands is considered Category II if it meets none of the Category I criteria and it meets any one of the following five criteria:

Criterion 1. Documented occurrences of sensitive species of plant, animal or fish recognized by federal or state agencies.

Criterion 1a: Plant Species. Wetlands that contain individuals of state-listed sensitive plant species.

TABLE 6. State-listed sensitive plant species that may be found in wetlands. (From Washington Natural Heritage Program 1990).

Common Name	**Scientific Name**
dwarf maidenhair fern	*Adiantum pedatwn ssp. subpumilum*
rush aster	*Aster junciformis*
bolandra	*Bolandra oregana*
lance-leaved grape-fern	*Botrychium lanceolatum*
moonwort	*Botrychium lunaria*
Victorin's grape-fern	*Botrychium minganense*
St. John's moonwort	*Botrychium pinnatum*
little grape-fern	*Botrychium simplex*
bronze sedge	*Carex aenea*
yellow-flowered sedge	*Carex anthoxanthea*
blackened sedge	*Carex atrata var. atrosquama*
blackened sedge	*Carex atrata var. erectaerect*
Buxbaum's sedge	*Carex buxbaumii*
bristly sedge	*Carex comosa*
dense sedge	*Carex densa*
porcupine sedge	*Carex hystricina*
green-fruited sedge	*Carex interrupta*
large-awn sedge	*Carex macrochaeta*

Scandanavian sedge	*Carex norvegica*	
few-flowered sedge	*Carex pauciflora*	
poor sedge	*Carex paupercula*	
several-flowered sedge	*Carex pluriflora*	
russet sedge	*Carex saxatilis*	
Canadian single-spike sedge	*Carex scirpoidea var. scirpoidea*	
saw-leaved sedge	*Carex scopulorum var. prionophylla*	
long-styled sedge	*Carex stylosa*	
many-headed sedge	*Carex sychnocephala*	
northern golden-carpet	*Chrysosplenium tetrandum*	
bulb-bearing water-hemlock	*Cicuta bulbifera*	
tall bugbane	*Cimicifuga elata*	
gold-thread	*Coptis asplenifolia*	
shining flatsedge	*Cyperus rivularis*	
few-flowered shooting star	*Dodecatheon pulchellum*	
beaked spike-rush	*Eleocharis rostellata*	
giant helleborine	*Epipactis gigantea*	
green-keeled cotton-grass	*Eriophorum viridicarinatum*	
pink fawn-lily	*Erythronium revoluttun*	
black lily	*Fritillaria camschatcensis*	
swamp gentian	*Gentiana douglasiana*	
slender gentian	*Gentiana tenella*	
water avens	*Geum rivale*	
longsepal globemallow	*Illiamna longisepala*	
Nuttall’s quillwort	*Isoetes nuttallii*	
Kellogg’s rush	*Juncus kelloggi*	
southern mudwort	*Limosella acaulis*	
northern twayblade	*Listera borealis*	
water lobelia	*Lobelia dortmanna*	
bog clubmoss	*Lycopodium inundatum*	
meconella	*Meconella oregana*	
Pulsifer’s monkeyflower	*Mimulus pulsiferae*	
Suksdorf’s monkeyflower	*Mimulus suksdorfii*	
branching montia	*Montia diffusa*	
Marsh muhly	*Muhlenbergia glomerata*	
Henderson’s ricegrass	*Oryzopsis hendersonii*	
fringed grass-of-Parnassus	*Parnassia fimbriata var hoodiana*	
Kotzebue’s grass-of-Parnassus	*Parnassia kotzebuei*	
northern grass-of-Parnassus	*Parnassia palustris*	

Mt. Rainier lousewort	*Pedicularis rainierensis*
small northern bog-orchid	*Platanthera obtusata*
canyon bog-orchid	*Platanthera sparsiflora*
blunt-leaved pondweed	*Potamogeton obtusifolius*
Alaska alkaligrass	*Puccinellia nutkaensis*
long-beaked water buttercup	*Ranunculus longirostris*
hoary willow	*Salix candida*
MacCall's willow	*Salix maccalliana*
soft-leaved willow	*Salix sessilifolia*
Tweedy's willow	*Salix tweedyi*
water pimpernel	*Samolus parviflorus*
black snake-root	*Sanicula marilandica*
Menzies' burnet	*Sanguisorba menziesd*
swamp saxifrage	*Saxifraga integrifolia var. apetala*
blue-eyed grass	*Sisyrinchium septentrionale*
prairie cordgrass	*Spartina pectinata*
subalpine spirea	*Spiraea densiflora var. splendens*
woodsage	*Teucrium canadense ssp. viscidum*
purple meadowrue	*Thalictrum dasycarpum*
pygmy-weed	*Tillaea aquatica*
erect pygmy-weed	*Tillaea erecta*
flat-leaved bladderwort	*Utricularia intermedia*
	Vaccinium myrtilloides

Justification. Some species of sensitive plants are found exclusively or predominantly in wetland habitats. Examples include interrupted sedge Carex interrupta scattered throughout Washington, and swamp gentian Gentiana douglasiana in Clallam and King Counties. Table 6 lists state-listed sensitive species that may be found in wetlands.

Criterion 1b: Animal Species. The wetland contains documented occurrences of federal or state-listed sensitive wildlife species managed by the Washington Department of Fish and Wildlife.

Justification. Some state-listed sensitive species are confined to wetland habitats and others use wetlands for some essential life needs and other habitats for other essential life needs.

Criterion 1c: Fish Species. The wetland contains documented habitats of state or federally listed sensitive fish species managed by the Washington Department of Fish and Wildlife.

Justification. These are wetlands that contain fish species or races that are currently listed as state or federal sensitive species.

Criterion 2. Documented priority habitats and species recognized by state agencies.

Criterion 2a: Wildlife Species. The wetland contains priority habitats and species documented by Washington Department of Fish and Wildlife's Priority Habitats and Species Program.

Criterion 2b: Fish Species. The wetland provides habitat for priority fish species managed by the

Washington Department of Wildlife.

Criterion 3. Wetlands with significant functions which may not be adequately replicated through creation or restoration.

Criterion 3a: Bogs and Fens. Bogs and fens that are 1/4 to 1/2 acre in size (see discussion of bogs and fens under Category 1).

Criterion 4. Freshwater wetlands with significant habitat value (greater than or equal to 22 points). Sources of Information Wetlands Rating Field Data Form.

Justification. The detailed system of assessing significant habitat value was developed to identify wetlands, which have characteristics that provide high levels of wetland functions.

Criterion 5: Wetlands of Local Significance.

(C) Category 3 Wetlands. A wetland is considered Category III if it meets none of the Category I or Category II criteria and meets any one of the following two criteria:

Criteria:

(I) Wetlands where the habitat score for significant habitat value is less than or equal to 21 points; or

(II) Wetlands identified as Category III wetlands of local significance.

Justification. These wetlands provide important functions and values. They are important for a wide variety of wildlife species. Generally these wetlands will be smaller and have less diverse vegetation. They can often be more isolated than Category II wetlands.

(D) Category 4 Wetlands.

Criteria:

(I) Wetlands less than one acre and hydrologically isolated and comprised of one vegetated class that is dominated (greater than 80 percent areal cover) by one species from the list in Table 4; or

Table 4 – List of native species for rating Category IV wetlands

Scientific Name	**Common Name**
Juncus effusus	Soft Rush
Spirea douglasii	Hard Hack, Buck Brush
Typha latifolia	Cattail

(II) Wetlands less than two acres and hydrologically isolated, with one vegetated class, and greater than 90 percent of areal cover is any combination of species from the list in Table 3; or

(III) Wetlands that are ponds smaller than one acre and excavated from uplands, without a surface water connection to streams, lakes, rivers, or other wetlands.

Justification. These wetlands are the smallest and have the least diverse vegetation. These are wetlands that can be replaced, and in some cases improved from a habitat standpoint. However, these wetlands do provide important functions and values, and should to some degree be protected. In some areas, for example on islands, these wetlands may be providing important ground water recharge and water pollution prevention functions, and therefore may be more important from a local point of view.

(g) Wetland Buffer Reduction. The city may decrease the required buffer width subject to an approved enhancement or mitigation plan pursuant to LCMC 14.20.060. See the tables in LCMC 14.20.035.

(i) The total wetland buffer area after optional reduction (on- and off-site) shall not be less than two times the total wetland area (on- and off-site); provided, the minimum buffer width at any point shall not be less than 50 percent of the base buffer widths contained in the tables in LCMC 14.20.035.

(ii) Enhancement Required. Buffer reductions shall not be allowed unless the city approves a wetland and wetland buffer enhancement plan consistent with LCMC 14.20.060. Enhancement plans may shield the wetland from high intensity use, make improvements to the wetland hydrology, and substantially enhance fish and wildlife habitat.

(iii) Buffer Rating System.

(A) Type A Buffer Criteria.

(I) A nonforested area consisting of a mature, unimpacted naturally occurring native plant community; or

(II) A forested buffer consisting of mature, native vegetation that displays diversity and possesses all the following characteristics: (1) multicanopied plant environment; (2) a tree canopy with trees greater than 20 feet tall covering 75 percent of the area; (3) three or more species of native trees; (4) three or more species of native shrubs; (5) predominance of native plant species; (6) ground surface thoroughly covered with native plant ground covers or a build-up of natural organic debris.

(B) Type B Buffer Criteria. These areas are immature versions of Type A buffers which are expected to mature into Type A buffers and meet all the criteria for Type A buffers within five years. If areas are designed and planted to be this type buffer, then all the following criteria must be met:

(I) New plantings consist exclusively of native plant species.

(II) Shrubs shall be of sufficient size and quantity to provide a multilayered canopy of shrubs within five years.

(III) Trees shall be planted at a density of five per 1,000 square feet and be of sufficient size to yield a Type A buffer in 10 years.

(C) Type C Buffer Criteria. Buffers that do not meet the criteria outlined for Type A, B, or D.

(D) Type D Buffer Criteria.

(I) Areas with monotypic or no vegetations; or

(II) Areas with a predominance of exotic species.

(iv) Adjusted Base Buffer Width.

(A) Reduced Width Based on Buffer Quality. The required buffer width may be decreased based on the quality of the existing buffer and so long as the applicant demonstrates, based upon best available science, that overall the quality and function of the buffer type is not significantly degraded. The maximum percentage of decrease from the base buffer width is:

(I) Type A buffer: 40 percent;

(II) Type B buffer: 30 percent;

(III) Type C buffer: 15 percent;

(IV) Type D buffer: 0 percent.

(B) Functionally Isolated Buffer Areas. Areas which are functionally separated from a wetland and do not protect the wetland from adverse impacts due to pre-existing roads, structures, or vertical separation, shall be excluded from buffers otherwise required by this chapter.

(C) Maximum Buffer Area. Except for streams, wetland buffers may be reduced so that total buffer area (on- and off-site) does not exceed two times the total wetland area (on- and off-site); provided, the minimum buffer width at any point shall not be less than 50 percent of the base buffer widths contained in Table 14.20.035(B), Wetlands and Wetland Buffers.

(h) Wetland Development Standards – General.

(i) Any development proposal that impacts a wetland or wetland buffer shall not be allowed without an approved mitigation or enhancement plan consistent with LCMC 14.20.060 and the mitigation sequencing preference. (See "mitigation" in LCMC 14.20.015.)

(ii) The city shall not approve a development proposal that impacts wetlands or wetland buffers without a finding that:

(A) The proposed activity shall not cause significant degradation of ground water or surface water quality or fish and wildlife habitat;

(B) The proposed activity shall comply with all state, local and federal laws, including those related to sediment control, pollution control, floodplain restrictions, storm water management, and on-site wastewater disposal; and

(C) Wetland and wetland buffer impacts shall be avoided or substantially minimized consistent with the mitigation sequencing criteria.

(i) Specific Uses Allowed in Wetlands.

(i) Uses generally allowed in wetlands or wetland buffers areas are described in LCMC 14.20.040 and 14.20.045.

(ii) Additional uses allowed in wetlands and wetland buffers include enhanced replacement and wetland banking.

(A) Enhanced Replacement. Replacing or enhancing a wetland such that the enhanced wetland is of higher quality and meets the criteria for a higher category.

(B) Wetland Banking. Construction of wetlands to use as replacement for wetlands in the same watershed which may be impacted in the future is permitted. If the new wetlands are constructed on a nonwetland site, a wetland permit is optional. If a permit is not obtained, information sufficient to ensure compliance with the requirements of this chapter shall be provided to the city when such created wetlands are used as mitigation for another project. Wetland replacement to be constructed on sites now containing a wetland requires a wetland permit.

(iii) All impacts to wetlands and wetland buffers shall be mitigated and monitored consistent with LCMC 14.20.060.

(j) Wetland Enhancement – Preliminary Plan. The preliminary enhancement/mitigation plan consists of two parts, baseline information for the site and a conceptual plan.

(i) Baseline information shall include:

(A) Wetland delineation report;

(B) Description and maps of vegetative conditions at the site;

(C) Description and maps of hydrological conditions at the site;

(D) Description of soil conditions at the site based on a preliminary on-site analysis;

(E) A topographic map of the site;

(F) Assessment of the functional uses of the existing wetland and buffer.

(ii) The contents of the conceptual plan shall include:

(A) Goals and objectives of the proposed project;

(B) Description of wetland type to be created;

(C) Map showing proposed wetland and buffer. This map should include the base buffer and the proposed buffer;

(D) Site plan;

(E) Discussion and map of plant material to be planted and planting densities;

(F) Preliminary drainage plan identifying location of proposed drainage facilities

including detention structures and water quality features (e.g., swales);

(G) Discussion of water sources for the wetland;

(H) Project schedule;

(I) Discussion of how the completed project will be managed and monitored;

(J) Discussion of contingency plans in case the project does not meet the goals initially set for the project.

(k) Wetland Enhancement – Final Plan. The contents of the final enhancement/mitigation plan shall include:

(i) Preliminary enhancement/mitigation plan and all conditions imposed on that plan.

(ii) Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the enhancement/mitigation project are being met. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

(iii) Detailed Construction Plans. Written specifications for the enhancement/mitigation project shall be provided. The specifications shall include: the proposed construction sequence, grading and excavation details, water and nutrient requirements for planting, specification of substrate stockpiling techniques, and planting instructions, as appropriate. These written specifications shall be accompanied by detailed site diagrams, sealed cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

(iv) Monitoring Program. Description of a detailed program for monitoring the success of the enhancement/mitigation project. In addition to the standards described in LCMC 14.20.060, a monitoring program shall include, but is not limited to:

(A) Establishing vegetation plots to track changes in plant species composition and density over time;

(B) Using photo stations to evaluate vegetation community response;

(C) Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, and heavy metals);

(D) Measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;

(E) Measuring sedimentation rates, if applicable; and

(F) Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

(v) Associated Plans and Other Permits.

(A) Final landscaping plan;

(B) Final drainage plan; and

(C) Final erosion and sediment control plan.

(vi) Evidence of Financial and Scientific Proficiency. A description of how the enhancement/mitigation project will be managed during construction and the scientific capability of the designer to successfully implement the proposed project. In addition, a demonstration of the financial capability of the applicant to successfully complete the project and ensure it functions properly over a

five-year period. Evidence that required bonding can be obtained.

(vii) Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.

(l) Wetland Permit – Application.

(i) Applications for wetland permits shall be made to the city on forms furnished by the city. The city shall process a wetland permit application as a request for land use approval pursuant to Chapter 17.200 LCMC, Land Use Review Procedures.

(ii) Wetlands permit applications shall include:

(A) Wetland delineations and required buffer width;

(B) A site plan for the proposed activity overlaid on an aerial photograph at a scale no smaller than one inch equals 400 feet showing the location, width, depth and length of all existing and proposed structures, roads, storm water management facilities, sewage treatment, and installations within the wetland and its buffer;

(C) The exact sites and specifications for all regulated activities including the amounts and methods;

(D) A proposed preliminary enhancement/mitigation plan meeting the requirements of this chapter.

(m) Wetland Permit – Approval.

(i) The city shall issue final approval of the wetland permit authorizing commencement of the activity permitted thereby upon:

(A) Submittal and approval of a final enhancement/mitigation plan;

(B) Installation and approval of the required field markings;

(C) The recording of a conservation covenant.

(ii) Conditions. An approval of a wetland permit shall incorporate the following condition:

(A) Posting of a cash performance bond or other security acceptable to the city in an amount and with surety and conditions sufficient to fulfill the requirements of the required final plan, mitigation plan and enhancement plan and to secure compliance with other conditions and limitations set forth in the permit.

(B) The city shall release the bond upon determining that:

(I) All activities, including any required compensatory mitigation, have been completed in accordance with the terms and conditions of the permit and the requirements of this chapter; and

(II) Upon forfeiture of a performance or maintenance bond, the proceeds thereof shall be utilized either to correct deficiencies which resulted in forfeiture or, if such correction is deemed by the county to be impractical or ineffective, to enhance other wetlands in the same watershed.

(iii) Duration. Wetland permit final approval shall be valid for a period of two years from the date of issuance unless:

(A) A longer period, not to exceed five years, is specified in the permit; or

(B) The city grants an extension upon the written request of the original permit holder or successor in title demonstrating to the satisfaction of the city:

(I) That the original intent of the permit would not be altered or enlarged by the extension; and

(II) That relevant circumstances and standards have not changed substantially since the permit application; and

(III) That the applicant has complied with the terms of the permit.

(iv) Revocation. In addition to other remedies provided for elsewhere, the city may suspend or revoke a permit if the applicant or permittee has not complied with any of the conditions or limitations set forth in the permit, has exceeded the scope of work set forth in the permit, or has failed to undertake the project in the manner set forth in the permit.

(n) Emergency Wetland Permit.

(i) Authorization. Notwithstanding the provisions of this chapter, the mayor or his or her designee may issue a temporary emergency wetland permit prospectively or, in the case of imminent threats to public health, safety or welfare, retroactively, where the anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by the chapter and other applicable laws.

(ii) Prior to issuing an emergency wetland permit, the mayor or his or her designee shall issue a finding that extraordinary circumstances exist and that the potential threat to public health, safety or welfare from the emergency situation is clearly significant and substantial.

(iii) Conditions. Any emergency permit granted shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for nonemergency activities under this chapter and shall:

(A) Be limited in duration to the time required to complete the authorized emergency activity, not to exceed 90 days; and

(B) Require, within this 90-day period, the restoration of any wetland altered as a result of the emergency activity, except that if more than the 90 days from the issuance of the emergency permit is required to complete restoration, the emergency permit may be extended to complete this restoration.

(iv) Notice. Notice of issuance of an emergency permit shall be published in a newspaper having general circulation in the city of La Center not later than 10 days after issuance of such permit.

(v) Termination. The emergency permit may be terminated at any time without process upon a determination by the city that the action is no longer necessary to protect human health or the environment. [Ord. 2001-2 § 3, 2002.]

14.20.035 Critical area buffers.

(1) Buffers Generally. Critical area buffers are assigned to the lands regulated by this chapter according to the tables in this section. Development activities are restricted within buffer areas as indicated in the tables.

(2) Buffer Standards.

(a) Building Setback and Construction Near Buffer. A minimum setback of 15 feet from the buffer shall be required for construction of any impervious surface(s) greater than 120 square feet of base coverage. Clearing, grading, and filling within a 15-foot buffer setback from the buffer shall be allowed only when the applicant can demonstrate that native vegetation within the buffer will not be damaged.

(b) Marking of the Buffer Area. The edge of the buffer area shall be clearly staked, flagged, and fenced prior to and through completion of construction. The buffer boundary markers shall be clearly visible, durable, and permanently affixed to the ground.

(c) Fencing from Farm Animals. Permanent fencing shall be required from the buffer when farm animals are introduced on a site.

(3) Riparian Area Ecosystem Buffers. Regulated activities proposed along rivers and streams shall provide for habitat protection.

(a) The riparian ecosystem buffer is generally an area of no building, consisting of undisturbed natural vegetation. The buffer shall be required along all streams as classified by the DNR water typing

classification system (WAC 222-16-030). The buffer shall extend landward from the ordinary high water mark of the water body.

(b) The buffer of a river or stream shall not extend landward beyond an existing substantial improvement such as an improved road, dike, levee, or a permanent structure which reduces the impact proposed activities would have on the river or stream.

(c) The city identifies the following river and stream segments as being critical to anadromous fish and, therefore, requiring a larger buffer protection, including:

(i) East Fork of the Lewis River within the UGA; and

(ii) Brezee Creek from the confluence with the East Fork of the Lewis River and the point where the creek exists the UGA.

Table 14.20.035(A) – Riparian Areas

Fish and Wildlife Habitat Areas RIPARIAN AREAS	**Critical Zone**	**Riparian Ecosystem Area Feet)**
Type I: Shorelines of the state	East Fork of the Lewis River	300
Type II: Perennial or fish bearing stream	5 – 20 feet wide	200
Type III: Fish bearing stream	Brezee Creek, McCormick Creek and streams 5 – 20 feet in width	200
Type III: Non-fish bearing stream	Jenny Creek and other perennial streams between 3 – 5 feet in width	150
Type IV: Intermittent stream	Less than 3 feet in width	105 (based upo BAS)
Type V (or lesser rating): Intermittent stream	Seasonal streams with a defined channel	95 (based upon B

Table 14.20.035(B)
Wetlands and Wetland Buffers

Wetland Category	**Buffer**
Category 1	300 feet
Category 2	200 feet
Category 3	100 feet
Category 4	50 feet

Table 14.20.035(C)
Wetland Mitigation Ratio

Wetland Category	**Creation and Restoration**	**Enhancement**

Category 1	6:1	12:1
Category 2 or 3		
Forested	3:1	6:1
Scrub/Shrub	2:1	4:1
Emergent	2:1	4:1
Category 4	1.25:1	2.5:1

Table 14.20.035(D)
Discretionary Wetland Buffer Reduction

Buffer Category	Maximum Possible Buffer Reduction with Enhancement
Type A Buffer	40%
Type B Buffer	30%
Type C Buffer	15%
Type D Buffer	0%

Table 14.20.035(E)
Other Critical Areas

Resource Type	Critical Zone	Protected Buffer
Wildlife Habitat		
– Local Habitat	Delineated	Use BAS for species.
– Priority Habitat	Delineated	Use BAS for species.
– Subject to the ESA	Delineated	Use BAS for species.
Frequently Flooded Areas	Delineated	100 ft. from edge of 100-year flooded area.
Geologically Hazardous Areas	Delineated	Within 75 ft. of top and toe of slope.
Slopes 25% or more	Delineated	NA
Wellhead Protection Area	CPU Wellhead	50 ft.
10-year zone of contribution	Delineated	

(4) Buffer Reduction.

(a) Wetlands. See LCMC 14.20.030(6) (g).

(b) In areas zoned for nonresidential use, the required buffer for riparian areas, classified as Type III or as less restrictive, may be reduced by up to 50 percent of the total buffer width if the city approves a buffer enhancement plan for the affected riparian area as described in LCMC 14.20.060. [Ord. 2001-2 §

3, 2002.]

14.20.040 Allowed uses.

(1) Unless the requirements of this chapter are met, La Center shall not grant any approval or permission to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement regulated through the following: building permit, commercial or residential; binding site plan; franchise right-of-way construction permit; site development permit; right-of-way permit; shoreline permits; short subdivision; use permits; subdivision; utility permits; or any subsequently adopted permit or required approval not expressly exempted by this chapter.

(2) Compliance with these regulations does not remove an applicant's obligation to comply with applicable provisions of any other federal, state, or local law or regulation.

(3) The uses listed in this section may be approved, subject to a Type II process, if the proposed development activity meets the standards in LCMC 14.20.050, Development standards, and LCMC 14.20.060, Mitigation.

(4) Allowed Uses. The city may allow the following uses on critical areas and within buffer areas subject to the development standards of LCMC 14.20.050 and appropriate mitigation standards as described in LCMC 14.20.060:

(a) Permeable trails.

(b) Below or above ground public utilities, facilities and improvements, initiated by the city, where necessary to serve development consistent with the La Center comprehensive plan, including: streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, and passive parks and recreational facilities listed in the capital facilities plan, where there is no other reasonable alternative, based on topographic and environmental conditions.

(c) Water dependent uses.

(d) Removal of diseased or dangerous trees, as determined by the mayor and his or her designee, or the removal of invasive or nuisance plants.

(e) Construction, replacement, or alteration of a single-family dwelling unit in a residential zoning district on a lot lawfully created and recorded prior to December 31, 1994, so long as the replacement or expansion conforms with the height regulations, lot coverage and dimension standards and other design provisions for the zone in which the residence is located. The dwelling unit shall be used solely for single-family purposes. Approval is subject to Type II review. The city may modify underlying zoning district dimensional standards applicable by up to a 50 percent adjustment, if necessary to protect critical areas.

(f) Existing agricultural practices on lands used continuously for agricultural purposes since December 31, 1994. Allowed agricultural practices include: pasture, vineyards, Christmas tree farms, gardens, etc., but do not include machine intensive row crop production.

(g) If development impacts a Category 1 or Category 2 wetland or wetland buffer, the applicant shall prepare an alternatives analysis consistent with the mitigation sequencing criteria. (See "mitigation" in LCMC 14.20.015.) [Ord. 2001-2 § 3, 2002.]

14.20.045 Limited uses.

Limited uses, as described in this section, shall avoid critical areas. Limited uses may be allowed within critical area buffers subject to the mitigation measures and implementation of a monitoring plan as described in LCMC 14.20.060. All limited uses shall be consistent with the provisions of this chapter and

SEPA.

(1) Subdivision or Short Plat. The subdivision or short plat process may be used when there are provisions (e.g., dedication of land or conservation easements) that prohibit building construction on critical areas.

(2) Development Subject to Site Plan Review. Any new building or structure affecting critical areas shall be subject to site plan review, unless otherwise exempted in this chapter.

(3) Legal Lot of Record. A legal lot of record (created prior to December 31, 1994), located in a UR zone, which has insufficient area to construct a single-family residence outside of critical areas, and is to be used solely for single-family residential purposes, shall be subject to site plan review. In such a situation, the development standards described in LCMC 14.20.050 shall become advisory, not mandatory. [Ord. 2001-2 § 3, 2002.]

14.20.050 Development standards.

The city shall prohibit soil excavation, grading, removal of native vegetation species, draining, intentional burning, planting of invasive or nuisance vegetation, placement of structures and new construction on critical areas unless otherwise authorized in this chapter.

(1) These development standards apply to uses on critical areas and within buffers unless otherwise exempted in this title.

(2) In order to approve application for development on lands subject to this chapter, the mayor or his or her designee shall find that the following standards have been met:

(a) All reasonable alternatives for locating the development activity in such a way so as to avoid critical areas have been considered and the development activity will be located in the least environmentally sensitive area as practicable and the purpose of this chapter, as described in LCMC 14.20.010, is fulfilled.

(b) The city has approved the vegetation removal methods and the removal of native plants has been avoided.

(c) All adverse impacts to all affected critical areas and buffers are either avoided or fully mitigated.

(d) The plan minimizes cuts and fills.

(e) Soils are not exposed during the rainy season (November 1st through April 30th) and construction activity is limited to the dry season (May 1st through October 31st).

(f) The mayor or his or her designee has reviewed and approved an erosion control plan, grading plan, and vegetation removal and replanting plan prior to construction activity.

(g) All activities have received applicable state and federal permits, and comply with SEPA requirements if the lead agency makes a threshold determination of significance (DS), or a mitigated determination of nonsignificance (MDNS).

(h) Hydraulic permits are required for any activity occurring within the ordinary high water mark of any state regulated Class I or Class II stream.

(i) Compliance with this chapter does not constitute compliance with state and federal environmental standards. The applicant shall be responsible for demonstrating such compliance.

(3) Review Process.

(a) The review process shall be the type specified in the LCMC for each particular land use action unless otherwise specified in this chapter.

(b) Applications to develop on critical areas or their buffers shall be subject to Type I review if, within a one-year period, the cumulative impact on critical areas is:

(i) Disturbance of less than 10 cubic feet of soil;

(ii) An activity, the fair market cost of which is less than $500.00; or

(iii) The activity involves less than 1,000 square feet of critical areas. [Ord. 2001-2 § 3, 2002.]

14.20.060 Mitigation.

(1) Approval. City approval of a mitigation plan is a prerequisite for approval of any development activities on critical areas.

(a) The applicant shall submit a written request describing the extent and nature of the proposed development activity on critical areas and buffers. The request shall include boundary locations and identification of all designated critical areas and buffers.

(b) The application for development shall include a mitigation plan prepared in compliance with this section. (See Appendix C, "Monitoring and Maintenance Plan" as an illustration of recommended plan.)

(c) The city may require the applicant to prepare special reports evaluating potential adverse impacts upon critical areas and potential mitigation measures as part of the land use application process. These reports may include, but are not limited to, the following: storm water management plan; hydrology, geology, and soils report; grading and erosion control plan; native vegetation report; fish and wildlife assessment and impact report; water quality report; wetlands delineation; and other reports determined necessary by the city.

(d) The city shall consult with state and federal resource management agencies and, in order to protect wildlife habitat or natural resource values, shall attach such conditions as may be necessary to effectively mitigate identified adverse impacts of the proposed development activity.

(e) The city may request third party "peer review" of an application by qualified professionals and may incorporate recommendations from such third party reports in findings approving or denying the application.

(f) All reports recommending mitigation shall include provisions for monitoring of programs and replacement of improvements, on an annual basis, consistent with report recommendations and at one-, three-, five- and seven-year intervals.

(g) The city may require replacement mitigation to be established and functional prior to project construction.

(2) No Net Loss.

(a) Mitigation efforts, when allowed, shall ensure that development activity does not yield a net loss of the area or function of the critical areas. No net loss shall be measured by:

(i) Avoidance or mitigation of adverse impacts to fish life; or

(ii) Avoidance or mitigation of net loss of habitat functions necessary to sustain fish life; or

(iii) Avoidance or mitigation of loss of area by habitat type.

(b) Mitigation to achieve no net loss should benefit those organisms being impacted.

(c) Where development results in a loss of wetland area, the mitigation plan shall demonstrate that wetland area is replaced consistent with the ratios described in the tables in LCMC 14.20.035. The created or enhanced wetland shall be, acre for acre, of equal or greater biological values, including habitat value, and with equivalent hydrological values including storage capacity.

(i) Wherever possible, replacement or enhancement shall occur on-site.

(ii) However, where the applicant can demonstrate that an off-site location is in the same drainage subbasin, and that greater biological and hydrological values will be achieved, the city may

approve such off-site mitigation.

(iii) Wetponds established and maintained for control of surface water shall not constitute mitigation for wetland alterations.

(iv) Where there is a wetland within 25 feet of the toe of a slope equal to or greater than 25 percent, the buffer shall be a minimum of 25 feet beyond the toe of the slopes.

(3) Mitigation Plan. A mitigation plan shall provide for the design, implementation, maintenance, and monitoring of mitigation measures. A mitigation plan shall include but is not limited to the following:

(a) Methods and techniques to be used to mitigate impacts to critical areas;

(b) Explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods;

(c) Methods and techniques for monitoring said mitigation and a proposed time-frame for such monitoring.

(4) Storm Water Management. Any development on critical areas shall be consistent with Chapter 14.10 LCMC, Storm Water and Erosion Control, or the most recent version of the "Stormwater Management Manual for the Puget Sound Basin," Washington State Department of Ecology, whichever is more restrictive.

(5) Buffer Enhancement. Where a development avails itself of the buffer reduction opportunity described in this chapter, the following enhancement standards shall apply:

(a) The applicant shall submit to the city a written request describing the extent and nature of the proposed development activity and shall submit a written enhancement plan.

(b) The enhancement plan shall include calculations and maps that illustrate:

(i) Required boundary locations of all critical areas and attendant buffers;

(ii) Proposed buffer areas after reduction;

(iii) Proposed areas to receive enhancement measures;

(iv) A timeline for completion of the enhancement plan;

(v) Methods and techniques to be used to mitigate impacts to critical areas;

(vi) An explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods; and

(vii) Methods and techniques for monitoring said mitigation and a proposed time-frame for monitoring.

(c) The enhanced area shall be, acre for acre, of greater biological values, including habitat value, and with greater hydrological values including storage capacity.

(d) Enhancement shall occur on-site.

(e) Wetponds established and maintained for control of surface water shall not constitute mitigation for wetland alterations.

(f) Surface water management or flood control shall not be considered enhancement. [Ord. 2001-2 § 3, 2002.]

14.20.070 Residential density transfer.

The city may permit density transfer from critical areas (sending lands) to designated noncritical areas (receiving areas).

(1) Residential Density Transfer. A property owner may transfer residential density to a receiving area designated on the La Center comprehensive plan map.

(a) Density may be transferred from one residential zone to a receiving zone that allows equal or greater density than the transferring zone.

(b) The value of the transfer shall be calculated on a net dwelling (DU) unit per acre basis using an average lot size of 7,500 square feet. [For example, if a property owner has one acre of unbuildable critical lands, the owner may transfer up to 3.6 units of density to a receiving area. The calculation is based on the following formula: one gross acre (43,560 square feet) minus the infrastructure allowance (15,680 square feet for roads, sewers, parks, schools) equals one net acre (26,880 square feet). A net acre could contain 3.6 single-family units each built on a 7,500-square-foot lot, the base lot size in La Center.]

(2) Transfer Criteria. The mayor, or his or her designee, shall approve requests to transfer density subject to the following criteria:

(a) Any adverse impacts to natural resources on the receiving areas shall be mitigated consistent with the mitigation section of this chapter.

(b) The building height and perimeter setback standards of the receiving area shall be met.

(c) Maximum density on the receiving area shall not exceed 150 percent of the base density otherwise allowed by the receiving district.

(d) The transfer of density to a receiving area shall not result in the construction of a housing type not otherwise allowed in the receiving area.

(e) On density sending lands the remaining critical areas and buffers shall be:

(i) Dedicated to the city for public use; or

(ii) Protected as an unbuildable area by means of deed restriction, conservation easement, or other mechanism approved by the city council.

(3) Recordation Required. Density may be transferred from a protected critical areas area only once. The mayor, or his or her designee, (upon consultation with the city attorney) shall be responsible for approving the mechanism used for protecting each critical area. The mayor or his or her designee shall maintain a list of sites from which density has been transferred, and a corresponding list of sites that have received density from protected critical areas. The applicant shall record the density transfer mechanism with Clark County and shall furnish the mayor or his or designee with a copy of the recorded instrument. [Ord. 2001-2 § 3, 2002.]

14.20.080 Selective timber harvesting on critical lands.

(1) Applicability. Consistent with RCW 76.09.240, the city extends its planning and zoning jurisdiction over forest practices in critical areas to the extent that:

(a) Commercial forestry activity occurs on lands identified as critical areas on the city's adopted critical areas maps;

(b) An application submitted under RCW 76.09.060 indicates that the lands will be converted to a use other than commercial timber productions;

(c) The subject lands were platted after January 1, 1960; and

(d) Consistent with the adopted La Center comprehensive plan, the city of La Center presumes that any application for commercial timber harvest within the La Center urban growth boundary that is subject to Chapter 76.09 RCW et seq. is for the purpose of converting forested lands into urban lands.

(2) Standards. Selective commercial timber harvesting may be permitted on critical areas subject to the following standards:

(a) Written Plan Required. Trees to be removed shall be identified through the development approval process and shall be clearly marked prior to their removal. An applicant shall present a written plan, explaining in detail the location of trees to be removed, and the method of removal, to the mayor, or his or her designee, for review and approval.

(b) In conjunction with a development application, selective tree cutting may occur to the

minimum extent necessary in conjunction with an approved development.

(c) Prior to approval of a harvesting permit, the applicant shall sign and record an agreement with the city stating that no development application may be filed on the subject property, other than a single-family residence, for six years following completion of timber harvesting operations.

(d) Selective tree removal on critical lands shall not result in loss of more than 50 percent of existing tree canopy covering critical areas.

(e) The applicant shall demonstrate that the methods used for tree harvesting and removal are the least disruptive practicable.

(f) Operations shall be limited to the dry season, that is, from May 1st through October 30th.

(g) Applicants for selective timber harvesting shall prepare an erosion control plan for review and approval by the mayor or his or her designee and, if the plan is approved, shall comply with the plan during harvesting activity and shall maintain required erosion control mechanisms for a period of 180 days after completion of the timber removal project.

(3) Conditions. The mayor, or his or her designee, may recommend conditions of approval necessary to minimize adverse impacts on natural resource values, including water quality and wildlife habitat to the extent that such conditions are consistent with the La Center comprehensive plan. [Ord. 2001-2 § 3, 2002.]

14.20.090 Modification to overlay zone.

The city may modify the boundaries of the critical areas overlay district based upon expert studies. Such amendments shall occur under Type III proceedings.

(1) Land to be conserved as public or private open space, through dedication, conservation easements or other appropriate means, shall retain a critical areas overlay designation.

(2) Land approved for private building construction shall be removed from this overlay district.

(3) The city shall maintain a record of all administrative amendments to the critical areas overlay district, including findings in support of the decision to modify the boundaries of the overlay district.

(4) The city shall correct mapping errors through a Type I process. [Ord. 2001-2 § 3, 2002.]

14.20.095 Application fees.

At the time of application for land use review or critical areas review, the applicant shall pay a critical areas review fee, adopted and amended by the city council, from time to time, by resolution. [Ord. 2001-2 § 3, 2002.]